

IN THE UNITED STATES DISTRICT COURT,
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAN 21 2022

HENRY UNSELD WASHINGTON
PLAINTIFF

KANSKY DELISIMA Defendants, et al.

No. 3:19-cv-00196
JUDGE LENTHANCLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

PLAINTIFF BRIEF IN OPPOSITION TO MEDICAL DEFENDANTS MOTION FOR SUMMARY JUDGMENT, Doc# 139-141

I, HENRY UNSELD WASHINGTON, AM THE PLAINTIFF IN THE ABOVE CAPTION

1. PLAINTIFF MOVES THIS COURT WITH PLAINTIFF BRIEF IN OPPOSITION TO MEDICAL DEFENDANTS MOTION FOR SUMMARY JUDGMENT, Doc# 139-141
2. N.B. PLAINTIFF RECEIVED A COPY OF MEDICAL DEFENDANTS BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT, ON OR NEAR 11.5.21, WHICH HAS AT LEAST TWO UNREADABLE, i.e. PP 12, 13; THE STATEMENT OF UNCONTESTED FACTS, Doc# 141, WHICH CITES REFERENCES TO EXHIBITS THAT DOES NOT EXIST, OR HAS NOTHING TO DO WITH THE ISSUE BEING DISCUSSED, e.g. 441-442; 455-456; 438-440; 433-434; 430-432; 414-422; AND THROUGHOUT THIS BRIEF, Doc# 141 PP. 1-8. HOW CAN PLAINTIFF SCRUTINIZE MEDICAL DEFENDANTS DOCUMENT WHEN REFERENCES CANNOT BE LOCATED, AND THE ISSUE IS NOT CITED ON THE REFERRED PAGE.

3. LEGAL STANDARD:

THE REVIEWING COURT MAY CONSIDER ANY MATERIAL IN THE RECORD IN DETERMINING WHETHER THERE EXISTS A GENUINE ISSUE OF MATERIAL FACT. FRAP 56 (1)(3)

GALLI V. NEW JERSEY MEADOWLANDS COMMUN., 490 F.3d 265, 270 (3rd Cir. 2007) (FRAP 56), WHILE THE EVIDENCE OF THE NON MOVING PARTY MAY EITHER DIRECT THE FINDING OF THE NON MOVING PARTY MAY EITHER DIRECT OR CIRCUMSTANTIAL AND NEED NOT BE AS DIRECT AS A ~~PRE~~ PREPONDANCE, THE EVIDENCE MUST BE MORE THAN A SCINTILLA.THE NON MOVING PARTY IS REQUIRED TO GO BEYOND THE PLEADING AND BY AFFIDAVITS OR "DEPOSITIONS, ANSWERS TO INTERROGATORIES AND ADMISSION ON FILE" "DEMONSTRATE SPECIFIC FACT SHOWING THAT THERE IS A GENUINE ISSUE FOR TRIAL." CELOTEX CORP V. CAT-REIT, 477 U.S. 317, 324, 126 S. Ct. 2548 (1986)AN ISSUE OF FACT IS GENUINE ONLY IF A REASONABLE JURY CONSIDERING THE EVIDENCE PRESENTED, COULD FIND FOR THE NON MOVING PARTY. CHILDERS V JOSEPH, 842 F.2d 689, 694 (3rd Cir. 1988); ANDERSON V. LIBERTY LOBBY INC., 477 U.S. 242, 249, 106 S.Ct. 2505 (1986)

IN DETERMINING THE EXISTENCE OF MATERIAL FACT, THE REVIEWING COURT MUST CONSIDER THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE NON MOVING PARTY

MILLER V. KELLNER, 2013 U.S. DIST. LEXIS 183396 (3rd Cir. SEPTEMBER 26 2013); WHITE V. WESTINGHOUSE ELECTRIC CO., 862 F.2d 328, 330 (3rd Cir. 1985); AS SUCH, THE COURT MUST ACCEPT THE NON MOVING PARTY'S ALLEGATIONS AS TRUE AND RESOLVE ANY CONFLICTS IN HIS OR HER FAVOR. TD GANS V. MUNDY, 762 F.2d 338, 340 (3rd Cir. 1985); GOODMAN V. MEND JOHN-SON, 534 F.2d 566, 573 (3rd Cir. 1976)

IN THIS INSTANCE PLAINTIFF PROVIDED COMMENTS, MANY DRAFTED-N-SIGNED BY DOC STAFF, AND/OR MEDICAL DEFENDANTS SUPPORTIVE TO PLAINTIFF DECLARATIONS, PROVIDING FAR MORE THAN SUFFICIENT EVIDENCE TO SUPPORT A JURY VERDICT IN PLAINTIFF FAVOR, WHICH DEMONSTRATES PLAINTIFF THEREFORE SURVIVED SUMMARY JUDGMENT, EXPERT TESTIMONY NOT NEEDED

4. PLAINTIFF OBJECTION TO PP 5-7. PLAINTIFF HAS SUCCESSFULLY DEFEATED THE NOTION FOR SUMMARY JUDGMENT OF MEDICAL DEFENDANTS BECAUSE PLAINTIFF HAS SUFFICIENT EVIDENCE TO SUPPORT A JURY VERDICT ON THE ISSUE ESTABLISHING A SERIOUS MEDICAL NEED, N.B. FOR THE SAKE OF CLARITY, HYPOCHONDRIA IS A PSYCHOLOGICAL TERM-N-DIAGNOSIS WHICH CAN ONLY BE DIAGNOSED BY PSYCHOLOGISTS. PLAINTIFF HAS UNDERGONE MORE THAN ONE PSYCHIATRIC EVALUATION, NOT ONCE DID THEIR FAMILIES DIAGNOSE HYPOCHONDRIA. IT IS NOT SOUND JUDGMENT THE COURT IN WASHINGTON V. COLLAMORE, 15 CV-1031, DOB#106 AT 14, 14 TO ACCEPT AS FACT THE CLAIM OF SOMEONE WHO FOUND PLAINTIFF SEXUALLY ATTRACTIVE, AND BECAUSE PLAINTIFF REBUKE THAT DEFENDANT CONTINUOUS SEXUAL REQUEST THAT DEFENDANT LABELLED PLAINTIFF AS A HYPOCHONDRIA. NO EVIDENCE HAS EVER BEEN PRESENTED TO THIS COURT WHERE A PSYCHOLOGIST DIAGNOSED PLAINTIFF TO BE A HYPOCHONDRIA

1. NOT ALL OF THE SERIOUS NEEDS HAS EXISTED FOR MANY YEARS, AND THESE HAVE THE MEDICAL DEFENDANTS IN THIS INSTANT LEGAL ACTION REFUSAL TO PROVIDE CARE FOR HAS CAUSED THOSE LONG TERM MEDICAL NEEDS TO EVOLVE INTO A STATE WHICH MORE THAN ONE SURGICAL PROCEDURE IS NEEDED, OR LONG TERM MEDICINE, AND/OR THERAPY IS REQUIRED, e.g. INABILITY TO SPEAK ALOUD, LIGERATURAL STRICTURE, NON STOP PAIN-N-EXTREME DISCOMFORT THROUGHOUT THE DIGESTIVE TRACT, SUDDEN LOSS OF WEIGHT, DEMENTIA, MEMORY LOSS, EXTREME DRY SKIN, DEFORMED FINGERS, MUSCLE WEAKNESS, NEAR BLINDNESS IN RIGHT EYE. HELLINAN V. MCKINNEY, 509 U.S. 25, 113 SOT 2175 (1993) (CITING WE HAVE DIFFICULTY AGREEING THAT PRISON AUTHORITIES MAY NOT BE DELIBERATE INDIFFERENCE TO AN INMATES CURRENT HEALTH PROBLEMS BUT MAY IGNORE A CONDITION OF CONFINEMENT THAT IS SURE OR VERY LIKELY TO CAUSE SERIOUS ILLNESS AND ENDLESS SUFFERING THE NEXT WEEK OR MONTH OR YEAR) PLAINTIFF FACTS DOCT#127 AT 6.

HOWEVER, COMPLAINTS ALSO CONSIST OF HEALTH PROBLEMS THAT EITHER EVOLVED FROM NO CARE, OR FIRST TIME OCCURRENCE, e.g. SEVERAL WEEKS OF CONTINUOUS DISCHARGE OF YELLOW GREASE PANDA OIL FROM RECTUM, RIGHT LEG SWOLLEN FAR BEYOND NORMAL SIZE AND TO SUCH EXTENT PLAINTIFF DROPPED HIS RIGHT LEG A PLAINTIFF WALKED, NEED OF LASER SURGERY, HEART VALVE DISEASE, IRREVERSIBLE FOOT FUNGUS, CONTINUOUS NOSE BLEEDS -N- FATIGUE DOB#127 AT 6, 9-12, 15-17, 19, 19, 110

SLOW HEART RATE, LOW RED-N-WHITE BLOOD CORPUSCLES, COVID SYMPTOMS, OPEN SORES ON FEET-N-TOES, FEET ENCASED IN CALLUSES, EYES IS DISCHARGING RED-N-BLOOD, TOE NAILS DISCHARGING RED-N-BLOOD, DIFFICULTY REMAINING AWAKE-N-CONCENTRATING

A SERIOUS HEALTH PROBLEM DOES ^{NOT} BECOME LESS SERIOUS AS UNTREATED HEALTH PROBLEM AS TIME PAST, BUT THOSE HEALTH PROBLEMS EVOLVED TO BE AN EVEN GREATER SERIOUS HEALTH PROBLEM, AND THE NEED FOR CARE IS EVEN MORE URGENT, ID, 509 OPPOS 319 CV 20196 (2)

U.S. 25. MONMOUTH CNTY CORR. INST. INMATES V. LANZARO, 834 F.2d 326, 347 (3d Cir. 1987) ("IF IT IS 'ONE THAT HAS BEEN DIAGNOSED BY A PHYSICIAN ARE REQUIRING TREATMENT OR ONE THAT IS SO OBVIOUS THAT A LAY PERSON WOULD EASILY RECOGNIZE THE NECESSITY FOR A DOCTOR'S ATTENTION'"); ESTELLE V. GAMBLE, 429 U.S. 97, 104, 97 S. CT 285 (1976) (DELIBERATE INDIFFERENCE TO SERIOUS MEDICAL NEEDS OF A PRISONER CONSTITUTES UNNECESSARY-N-WANTON OF PAIN PRESCRIBED BY THE EIGHTH AMPENDMENT); ROUSE V. PLANTIER, 182 F.3d 192, 197 (3rd Cir. 1999) (KNOWINGLY IMPRISONERS NEED FOR MEDICAL TREATMENT BUT INTERNATIONALLY REFUSE TO PROVIDE IT; DELAYS NECESSARY MEDICAL TREATMENT BASED ON NON MEDICAL REASONS; ARE VIOLATING PRISONER FROM RECEIVING NEED OR RECOMMENDED MEDICAL TREATMENT) MEDICAL DEFENDANTS, ALL WHOM HAVE VOWED TO PENALIZE PLAINTIFF, ONE, DEFENDANT, PLAYSO PHYSICALLY ASSAULTED PLAINTIFF, BY WAY OF EXH D; I; REFERENCED TO ALLEGED ACTS AGAINST MEDICAL DEFENDANTS WHICH ARE SELF SERVING DECLARATIONS, THE ALLEGATION CONTAINED THEREIN ARE NOT FACTS.

N, B. FIRST-N-FORMOST, THE LATEST CLAIM ALLEGED AGAINST MEDICAL DEFENDANTS WAS FILED IN PLAINTIFF AMENDED COMPLAINT DATED 5.22.20; WHAT FOLLOWS IS ALL-N-ANY PURPORTED TREATMENT PRIOR TO 5.22.20; WOULD BE INACURATE, AND MAYBE SUCH AN ASSERTION WOULD BE MADE FOR THE PURPOSES OF CREATING A RED HERRING. FOR MEDICAL DEFENDANT TO PRESENT DOCUMENTS SAYING PLAINTIFF WAS PROVIDE TREATMENT BY A CARDIOLOGIST, ONTO LARYNGOLOGIST, GASTROENTEROLOGIST, LASER SURGERY ON RIGHT EYE, UROLOGIST, PODIATRIST, THIS COURT SHOULD REQUIRE THAT A CONSENT FORM SIGNED BY PLAINTIFF, BECAUSE ANY SUCH CLAIMS ARE FALSE. ANY-N-ALL CLAIMS OF HAVING PROVIDED TREATMENT BY A CARDIOLOGIST, ONTO LARYNGOLOGIST, GASTROENTEROLOGIST, LASER SURGERY ON RIGHT EYE, UROLOGIST, PODIATRIST

AFTER 5.22.21, FALLS OUTSIDE THE PARAMETER OF WASHINGTON V. DELISMA, ANY DOCUMENT MAKING SUCH CLAIM LIKEN TO EXH D AT II, 12; SHOULD BE STRIKEN FROM THE RECORD, AND THE SAME FOR PATTERN DRAFTED DECLARATION, I.E, EXHS D-I, ELSE IT IS INEVITABLE SUCH DOCUMENT WILL BECOME A RED HERRING.

MANY ALLEGATIONS MADE IN EXHS D-I ARE NOT FACTS.

N, B. WHIPPLES DISEASE, AND CELIAC DISEASE ARE NOT ONE AND THE SAME, AND TO DO A BIOPSY FOR CELIAC IS NOT TANTAMOUNT TO CONDUCTING A BIOPSY FOR WHIPPLES DISEASE TOO, NOR DR. LANASA MAKE SUCH A CLAIM, AND WHEN PLAINTIFF ASKED DR LANASA TOLD PLAINTIFF THE TWO ARE DISTINCTIVELY DIFFERENT PLUS THE REPORT DOES NOT STATE THE BIOPSY WAS BEING DONE FOR WHIPPLES DISEASE. IT WAS FOR CELIAC DISEASE. MEDICAL DEFENDANT ALLEGATIONS ARE NOT FACTS. PLAINTIFF HAS FOR THE MOST PART, STAND ON PLAINTIFF MOTION-N-UNDISPUTED STATEMENTS OF FACTS, DOCS #126, 127, BOTH DOCUMENTS AND EXHIBITS ARE INCORPORATED HEREIN BY REFERENCE IF SET FORTH IN FULL (BELOW AT P.35) PLAINTIFF VERSION IS NOW IN CONFLICT WITH BMW INC V. BMW OF NORTH AMERICA INC, 974 F.2d 1358, 1363 (3d Cir 1992) (IN ADJUDICATING THE MOTION THE COURT MUST VIEW THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE NON MOVING PARTY).
OPP:JS 3:19-CV-00196

WHERE THE NON MOVING PARTY'S EVIDENCE CONTRADICTS THE MOVANT THEN THE NON MOVANT MUST BE TAKEN AS TRUE. ANDERSON V. LIBERTY LBBY, INC., 477 U.S. 232, 255, 106 S.Ct. 2505 (1990) (THE EVIDENCE OF THE NON MOVANT TO BE BELIEVED, AND ALL JUSTIFIABLE INFERENCES ARE TO BE DRAWN IN ITS FAVOR)

5. Doc #139 AT 'C' PP. 7-10. CONCERNING DEFENDANTS ISSUE OF "BUT FOR" CAUSATION, IN MEDICAL PROFESSIONAL/DEFENDANTS BRIEF IN SUPPORT FOR SUMMARY JUDGMENT Doc #139; SAME AS IN WASHINGTON V. BARNHART, 3:17-cv-0070; AND ONCE EARLIER IN THIS ACTION

N.B. AILMENTS, INJURIES, OR DISEASES, AND SYMPTOMS CAUSING PAIN-N-(MEDICAL DEFENDANTS CONCEDED IN THEIR BRIEF IN SUPPORT FOR SUMMARY JUDGMENT PLAINTIFF AILMENTS ARE SERIOUS MEDICAL NEEDS) DISCOMFORT THAT WERE NOT CAUSED BY MEDICAL DEFENDANTS DOES NOT GIVE MEDICAL DEFENDANTS CAUSE BLANCHE TO BE DELIBERATE INDIFFERENT TO PLAINTIFF MEDICAL NEEDS. PONZIAT V. MANROE COUNTY, 2015 U.S. DIST. LEXIS 115669 (4th CR. AUGUST 31, 2015) (AS A MATTER OF LAW, IT IS NOT CLEAR THAT A BUT FOR CAUSAL RELATIONSHIP IS NECESSARY FOR PLAINTIFF TO PREVAIL IN THIS CASE AND THE COURT DECLINE TO ADOPT SUCH A STANDARD); HEATH V. SHANNON, 412 F. APP'X 712, 715 (3d CR. 2011) (CAUSAL RELATIONSHIP THEORY "RELIED UPON MEDICAL DEFENDANTS SUMMARY JUDGMENT MOTION WAS BASED ON TWO NON PRECEDENTIAL DISTRICT COURT CASES; WALTHOUR; AND MISZLER IN THIS INSTANT LEGAL CASE ALL OF PLAINTIFF CLAIMS AGAINST MEDICAL DEFENDANTS ARE SO OBVIOUS EVEN A LAY PERSON WOULD READILY RECOGNIZE THE NEED OF A DOCTOR'S CARE; HAVING NO NEED OF EXPERT TESTIMONY. NONE OF THE ALLEGED CLAIMS AGAINST MEDICAL DEFENDANTS IN THIS LEGAL ACTION REQUIRE EXPERT TESTIMONY. NO CLAIM IS ALLEGED INVOLVES SOPHISTICATED MEDICAL CONDITION. . . . PLAINTIFF IN THESE CASES CITED BY MEDICAL DEFENDANTS ARE ALLEGED TO HAVE CAUSED PLAINTIFF INJURY, NOT SO IN THE INSTANT LEGAL ACTION, PLAINTIFF CHRONIC AILMENTS, AND THE TREATMENT ARE NOT CONCERNING SERIOUS MEDICAL NEEDS WHICH A LAY PERSON WOULD NOT READILY UNDERSTAND. THE MOVANT USE OF HYPERBOLE DOES NOT CONSTITUTE A REQUIREMENT FOR EXPERT TESTIMONY

6. Doc #139 AT 'D' N.B. SEE ABOVE AT 2.

MEDICAL DEFENDANT, EXACTLY AS IN WASHINGTON V. BARNHART, 3:17-cv-0070, DURING A EARLIER STAGE IN THIS LEGAL ACTION, MEDICAL DEFENDANTS AGAIN INFERS THAT A JURY OF LAY PERSONS LACK THE INTELLIGENCE TO DECIDE WHAT IS DELIBERATE INDIFFERENCE WITHOUT THE AID OF EXPERT WITNESS. . . . MEDICAL DEFENDANTS FAILED TO SHOW A JURY OF LAY PERSON COULD NOT DECIDE THAT TURNING PLAINTIFF AWAY WHILE HAVING EXHIBITED SIGNS OF COVID-19 SYMPTOMS, NEEDED TO BE PHYSICALLY ASSISTED IN-N-OUT OF THE MEDICAL DEFENDANTS OFFICE; WHILE PUS-N-BLOOD IS DISCHARGING FROM PLAINTIFF EYE, PUS-N-BLOOD OZZING FROM TOENAILS; ALL TOENAILS TOTALLY BLACK, FEET-N-LEGS HAVING OPEN SORES -N- COVERED IN BLOOD; UNABLE TO SEE OUT OF RIGHT EYE; INABILITY TO SPEAK ALOUD; SEMEN FLOWING NO STOP TO SUCH A DEGREE PLAINTIFF PANTIES WAS SOAKED WITH SEMEN, ETC EXPERIENCING NON STOP PAIN -N- DISCOMFORT TO SUCH EXTENT PLAINTIFF IS BEGGING FOR MEDICINE FOR PAIN; IS A ACT OF DELIBERATE INDIFFER-

ENCE N.B. PLAINTIFF DOES CONCEDE TO HAVING RECEIVED MEDICAL CARE. PLAINTIFF IS NOT ALLEGING DELIBERATE INDIFFERENCE CONCERNING THE CARE RECEIVED. YES, PLAINTIFF DOES ALLEGING DELIBERATE INDIFFERENCE DUE TO THE COMPLETE DENIAL OF MEDICAL CARE BY MEDICAL DEFENDANTS. IN SOME INSTANCES DENIAL OF CARE FOR ALLMENTS PLAINTIFF REQUESTED CARE FOR, AND BASED ON MEDICAL DEFENDANTS OWN WORDS, THEIR DENIAL OF CARE WAS TO PENALIZE PLAINTIFF FOR HAVING PURSUED LEGAL ACTION, AND/OR SUBMITTED A GRIEVANCE AGAINST MEDICAL DEFENDANTS PERSONALLY OR CO WORKER, FAMILY MEMBER, NEIGHBOR, ETC. MEDICAL DEFENDANTS PROVIDING THIS COURT WITH SELF SERVING DECLARATIONS, (N.B. SOME APPEAR THE EVERY SIMILAR TO DECLARATION FILED IN WASHINGTON V. BARNHART) ALL MANTA HOW PLAINTIFF RECEIVED EXTRA ORDINARY AMOUNT OF CARE DOES NOT CONTRAVERT INTO A REQUIREMENT OF EXPERT TESTIMONY. A LAY PERSON COULD DECIDE A VERDICT OF DELIBERATE INDIFFERENCE AGAINST MEDICAL DEFENDANTS

ACCORDING TO THE THIRD CIRCUIT, THERE ARE EXCEPTIONS TO THE NEED OF EXPERT TESTIMONY. WARRIZEN V. PRIME CARE, MED. INC., 2019 U.S. DIST. LEXIS 200270* NOTE 147 (3d CIR DECEMBER 31, 2019); ESTATE OF KEMPT V. WASHINGTON COUNTY, 2018 U.S. DIST. LEXIS 153252* 34 (3d CIR. SEPTEMBER 12, 2018); ESTATE OF THOMAS V. FAYETTE COUNTY, 194 SUPP 31 358, NOTE 8 (3d CIR JULY 8, 2011) (IF A JURY WOULD NOT BE ABLE TO DECIDE WHETHER A PLAINTIFF MEDICAL CONDITION IS SERIOUS ENOUGH TO IMPLICATE THE EIGHT AMENDMENT, IT IS NOT THE ABSENCE OF EXPERTS THAT IS FATAL TO PLAINTIFF CLAIMS IT IS INSTEAD THE ABSENCE OF ANY TYPE OF RECORD EVIDENCE FROM WHICH THE COURT CAN CONCLUDE THAT A JURY COULD DRAW REASONABLE INFERENCE IN PLAINTIFF FAVOR, MAKING THAT A TRIAL NECESSARY TO RESOLVE ISSUE OF MATERIAL FACT) McCABE V. PRISON HEALTH SERVICES, 117 F. SUPP. 2d 443, 452 (3d CIR. NOVEMBER 13, 1997) (PRISONER NEED NOT PRESENT EXPERT TESTIMONY REGARDING THE SERIOUSNESS OF A MEDICAL CONDITION WHERE THE MEDICAL SEVERITY IS ACKNOWLEDGED BY PRISON DOCTORS OR WOULD BE APPARENT TO A LAY PERSON) THERE IS NO GENERAL REQUIREMENT IN THE THIRD CIRCUIT THAT A PLAINTIFF PRESENT EXPERT TESTIMONY IN EIGHT AMENDMENT DELIBERATE INDIFFERENCE CASES. ID. AT 452

ROYSTER V BENNISON, 2015 U.S. DIST LEXIS 120806* 31 (3d CIR SEPTEMBER 2015) (UNDER PENNSYLVANIA LAW, THE ONLY EXCEPTION TO THE REQUIREMENT OF EXPERT WITNESS TESTIMONY IN MEDICAL MALPRACTICE CASES IS WHERE THE MATTER IS SO SIMPLE, AND LACK OF SKILL OR WANT OF CARE SO OBVIOUS, AS TO BE IN THE RANGE OF ORDINARY EXPERIENCE AND COMPREHENSION OF EVEN A NON-PROFESSIONAL PERSON); GREEN V. BISHOP, 2014 U.S. DIST. LEXIS 17017* 39 (3d CIR JANUARY 8, 2014); McCord V. DEPT. OF CORRECTION, 984 A.2d 556, 571 (PA. COM. CT. 2009); HIGHTOWER-WARREN V. SALK, 548, 676 A.2d 52, 54 NOTE 1 (PA. 1987); LAMBERT V. SOLTIS, 442 PA. 304, 211 A.2d 173, 176 (MALPRACTICE CASES THAT DO NOT REQUIRE EXPERT TESTIMONY: GENERALLY INVOLVES GROSS INCOMPETENCE)

YES, MEDICAL DEFENDANTS DID WITHHOLD MEDICAL CARE FOR NON MEDICAL REASONS, MEDICAL DEFENDANTS INDEED WERE AWARE PLAINTIFF NEEDED MEDICAL TREATMENT BUT INTENTIONALLY REFUSED TO PROVIDE IT, AND YES, MEDICAL DEFENDANTS, INDEED DID PREVENT PLAINTIFF FROM RECEIVING NEEDED OR RECOMMENDED MEDICAL TREATMENT. EXH:55 AT 3-17, 23

35,39; PLAINTIFF FACTS, Doc # 17 AT 6, 9-20, 44-46, 48-64, 84-87, 91-96, 102, 110, EXH 50. ESTELLE V. GAMBLE, 429 U.S. 97, 102-104, 97 S. 2d 285 (1976) (THE ELEMENTARY PRINCIPLES ESTABLISH THE GOVERNMENT'S OBLIGATION TO PROVIDE MEDICAL CARE FOR THOSE WITHIN ITS JURISDICTION. BY IN CARCERATION, AN INMATE MUST RELY ON PRISON AUTHORITIES TO TREAT HIS MEDICAL NEEDS; IF THE AUTHORITIES FAIL TO DO SO, THOSE NEEDS WILL NOT BE MET. IN THE WORST CASES, DENIAL OF MEDICAL CARE MAY RESULT IN PAIN AND SUFFERING WHICH NO ONE SUGGEST WOULD SERVE ANY PENOLOGICAL PURPOSES. THE IMPLICATION OF SUCH UNNECESSARY SUFFERING IS INCONSISTENT CONTEMPORARY STANDARDS OF DECENCY) ROUSE V. PLAZETTES, 182 F.2d 412, 197 (3d Cir) AN EXAMINATION OF THE MEDICAL RECORD ALONE ONLY PROVIDES SELF SERVING EVIDENCE, IT ONLY STATES THE MEDICAL DEFENDANTS VERSION. THE MERCE FACT THAT A MEDICAL PROFESSIONAL STAMPED OFF ON NOTATION IN PLAINTIFF MEDICAL RECORD DOESNT MEAN PLAINTIFF WAS ACTUALLY SEEN BY A MEDICAL PROFESSIONAL OR BY THE PERSON WHOSE NAME IS AFFIXED BY THE STAMP ON THE PARTICULAR MEDICAL NOTE, BECAUSE THE COURT SEE A DOCTOR'S NAME ON A MEDICAL NOTATION, AND OR ON A DOCTOR'S ORDERS FORMS DOES NOT MEAN THAT PLAINTIFF ACTUALLY VISITED THE DOCTOR, OR WAS PROVIDED TREATMENT, THE DOCTOR MAY HAVE MERELY REVIEWED PLAINTIFF CHART OR SICK CALL REQUEST OR JUST STAMPED OFF ON PLAINTIFF PRE-EXISTING SICK CALL REQUEST. MANY, IF NOT ALL OF THE NOTATIONS IN PLAINTIFF MEDICAL RECORDS ^{WERE} DRAFTED SHOW PLAINTIFF WAS SEEN BY MEDICAL PERSONNEL, WHEN IN ACTUALLY MANY, IF NOT ALL OF THOSE NOTATIONS WERE MADE WITHOUT ACTUAL EXAMINATION OF FACE TO FACE CONTACT WITH PLAINTIFF. HOUSE V. FOLINO, 2014 U.S. DIST. LEXIS 101095 23 (3d Cir. JUNE 24, 2014); PEARSON V. PRISON HEALTH SERVICES, 519 F.3d 77, 84 (3d Cir. FEBRUARY 15, 2013) (THE NUMBER OF ENTRIES IN THE MEDICAL RECORDS DOES NOT NECESSARILY DEMONSTRATE THAT HE RECEIVED CONSTITUTIONALLY SUFFICIENT MEDICAL CARE"

THE MEDICAL RECORD DOES NOT MAKE IT CLEAR WHETHER PLAINTIFF RECEIVED MEDICAL ATTENTION AND CARE FOR EACH OF THE ACUTE AND SERIOUS MEDICAL CONDITION WHEN PLAINTIFF SOUGHT TREATMENT AND CARE (DOCS # 17 AT 6, 9-20, 44-46, 48-64, 84-87, 91-96, 102, 110, EXH 50; FACTS AT 3-19, 23, 35, 39) WHETHER IT WAS CONSTITUTIONALLY ADEQUATE. HOUSE, LEXIS 101095 AT 19

N.B. THE DOCUMENTS SUBMITTED BY MEDICAL DEFENDANTS SHOULD BE VALIDATED BY SIGNATURE, CONSENT FORMS, ETC. MEDICAL DEFENDANTS, THE MOVANTS DOES NOT HAVE THE RIGHT TO OBTAIN SUMMARY JUDGMENT BY THE ADMISSION OF DOCUMENT CITING OCCURRENCES THAT NEVER TOOK PLACE. THE NOTATION IN PLAINTIFF MEDICAL RECORD SHOULD BE SCRUTINIZED, FIRST AND FOREMOST THE INDIVIDUAL WHO DRAFTED THESE NOTATIONS ARE THE SAME INDIVIDUAL WHO VOWED TO PENALIZE PLAINTIFF BY DENYING MEDICAL CARE (DOCS # 17 AT 39, 42-46, 48, 49, 53, 54, 57-63, EXH 55 AT 7, 10, 11, 17, 22, 24, 34, 38; DOCS # 17 AT 85, 86, 88, 91, 92, 102, 111) SAYING THAT PLAINTIFF UNDERWENT ATTEST FOR A CERTAIN DISEASE, IF THE NOTATION IS NOT STAMPED BY PLAINTIFF THE CHANCES ARE EXTREMELY HIGH THE PROCEDURE NEVER OCCURRED, I.E. THE EBO TEST WHICH DEFENDANT ASSEPT REVEALED THAT PLAINTIFF HAS DASTITIS

N.B. DURING A TEMPORARY TRANSFER TO SGT GRANGE, LATE OCTOBER OF 2016, DOCTORS OFF. ST 3:19-CV-00196

LAWRANCE LYONS, AND SANTOS, DIAGNOSED PLAINTIFF WITH WHIPPLES DISEASE; AN PRE-
SCRIBED A MEDICAL TREATMENT FOR WHIPPLES-N-RECOMMENDED THAT PLAINTIFF BE SPECIFICALLY A DIET-
TION TO DESIGN A PERMANENT SUPPLEMENTARY DIET FOR PLAINTIFF; THIS OCCURRED DURING TH-
REE- FOUR SEPARATE SICK CALL VISITS. THIS IS MOST TELLING THAT PLAINTIFF WAS PROVID-
ED THE TREATMENT FOR WHIPPLES DURING THIS TEMPORARY TRANSFER, WHICH MEDICAL DE-
FENDANTS HAD REFUSED TO PROVIDE AT SCI-SOMERSET SEE Doc#127 AT 6; 13; 61; 102; 52
EXH: 55 AT 15; 16

HOUSER V. FOLINO, 2014 U.S. DIST. LEXIS 101095 *45 (3rd CR. 2014); VARNER V. BYLONAHAK
JIN, 2014 U.S. DIST LEXIS 7526 *6, 7 (3d CR. JANUARY 22, 2014) (TREATMENT AFTER BEING TRANS-
FERRED)

IV. B. MEDICAL DEFENDANTS DID NOT TOUCH PLAINTIFF PHYSICALLY; THEREFORE, MANY
OF THE ALLEGATIONS ASSERTED IN MEDICAL DEFENDANTS EXHS D-I DID NOT OCCURRED
WHEN. . . MEDICAL DEFENDANTS DECLARATIONS ARE SELF SERVING, THESE ARE ALLEG-
ATIONS ARE NOT FACTS. BRNT V. VARANO, 2016 U.S. DIST. LEXIS 37127 (3d CR MARCH 2016)
(THE COURT MUST CONSIDER ALL REFERENCE IN THE LIGHT MOST FAVORABLE TO THE
PARTY OPPOSING THE MOTION)

EXPERT TESTIMONY IS NOT NEEDED

7. Doc#139 AT E. DEFENDANTS USING THE SAME ISSUES ALREADY SUBMITTED IN
WASHINGTON V. BARNHART 3:17-CV-0070.

SUMMARY JUDGMENT MUST ALSO BE GRANTED TO PLAINTIFF BECAUSE THERE IS
NO NEED FOR EXPERT TESTIMONY ON THE ISSUE OF A SERIOUS MEDICAL NEED.
SEE Doc#127 AT 6; 84; 44; 20; 110; 87 EXH: 55 AT 5-7; 19; EXH: 56 AT I-IX

MONMOUTH COUNTY CORR. INST. INMATES V. LANZARO, 834 F.2d 326, 347 (3d CR. 1987) (SER-
IOUS MEDICAL NEEDS)

MEDICAL DEFENDANTS THREATEN TO ACT, ~~AND~~ AND FOLLOWED UP THEIR THREATS WITH
ACTION, THEREFORE MEDICAL DEFENDANTS KNEW THE RISK-N-IGNORED THE DANG-
ER. Doc#127 AT 41-44; 46-51; 53; 57-63; 66; 84; 85; 94-97; 101; 110; 111

EXH: 55 AT 9-11; 14; 23; 26; 35; 38; 41; EXH: 56 AT I-IX

FARMER V. BRENNAN, 511 U.S. 825, 842, 114 S.Ct. 1970 (1994); HEARY V. FOLINO, 2018 U.S.
DIST. LEXIS 47066 *14 (3d CR. 2018) (A CULPABLE STATE OF MIND CAN BE FOUND WHERE AN
OFFICIAL ACTED OR FAILED TO ACT DESPITE HIS KNOWLEDGE OF A SUBSTANTIAL RISK OF SER-
IOUS RISK). PRISON OFFICIALS WHO CONTINUE A COURSE OF TREATMENT THEY KNOW IS PAINFUL,
INEFFECTIVE, OR ENTAILS A SUBSTANTIAL RISK OF SERIOUS ~~MEDICAL HARM~~ HARM ACT
WITH DELIBERATE INDIFFERENCE. WHOOTEN V. BUSSANICH, 278 FED APPX 324, 326,
327 (3d CR. 2007). . . PRISON OFFICIAL WHO CONTINUE A COURSE OF TREATMENT THEY
KNOW IS PAINFUL, INEFFECTIVE, OR ENTAILS A SUBSTANTIAL RISK OF SERIOUS MEDICAL HARM
ACT WITH DELIBERATE INDIFFERENCE. ROUSE V. PLANTIER, 182 F.3d 192, 197 (3d CR 1999)
WHITE V. NAPOLEON, 897 F.2d 103, 109 (3d CR 1990). . . THERE IS EVIDENCE THAT ① THE
DEFENDANT KNOWS WHAT A PRISONER NEEDS FOR MEDICAL TREATMENT BUT INTENTIONALLY RE-
FUSE TO PROVIDE IT ② THE DEFENDANTS DELAYS NECESSARY MEDICAL TREATMENT BASED ON
A NON-MEDICAL ~~REASON~~ REASONS ③ THE DEFENDANTS PREVENTS A PRISONER FROM

OPP: S.J. 3:19-CV-00196

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RECEIVING NEEDED OR RECOMMENDED MEDICAL TREATMENT
 8, DOC#139 AT F. PLAINTIFF HAS MET THE REQUIREMENT TO ESTABLISH RETALIATION TO DEFEAT SUMMARY JUDGMENT, DOC#139

N.B. PLAINTIFF ALLEGED RETALIATORY CLAIMS DO NOT CONCERN ~~DISCRIMINATORY~~ ^{SEPTINAR} ACTIONS. THE ALLEGED RETALIATION CLAIMS ARE PERTINENT TO PLAINTIFF FILING LAWSUITS-N-GRIEVANCES, AND CONTINUOUS COMMUNICATIONS WITH AUTHORITIES.

MEDICAL DEFENDANTS ALLEGED MISCONDUCT WAS NOT PART OF A GOVERNMENT COMPELLING INTEREST. PLAINTIFF EXPERIENCED ADVERSE ACTIONS, THE DENIAL OF MEDICAL CARE WILL DETER A PERSON WITH ORDINARY FIRMNESS FROM EXERCISING THEIR CONSTITUTIONAL RIGHTS. PLAINTIFF PROTECTED ACTIVITY WAS SUBSTANTIAL OR THE MOTIVATING FACTOR IN MEDICAL DEFENDANTS DECISION TO TAKE ACTION AGAINST PLAINTIFF.

MEDICAL DEFENDANTS IN THE BRIEF IN SUPPORT OF SUMMARY JUDGMENT, DOC#151, CITE ONLY CITE PART OF WHAT PLAINTIFF ALLEGED. PLAINTIFF ALLEGED THAT MEDICAL DEFENDANTS CITED THE NAMES N-DOCKET NUMBER, AND GRIEVANCE TRACKING NUMBER TO THE LAWSUITS-N-GRIEVANCE CONCERNING SOL GREENE, THE PLAINTIFF CITED MORE THAN ONE OF THE MEDICAL DEFENDANTS IN WASHINGTON V. BARNHART, 3:17-CV-0070 AND FILED GRIEVANCES AGAINST MEDICAL DEFENDANTS PERSONALLY.

SEE DOC#127 AT 6, 9, 11-20, 38, 39, 41-44, 48, 51, 57, 60, 62, 63, 82, 84, 88, 110, 111 EXHS: 55 AT 9, 10, 14, 23, 26, 35-41

IN WASHINGTON V. BARNHART, 3:17-CV-0070, DEFENDANTS, R. PLAYSO, E. KAUFFMAN, AND R. HUTCHINSON, VERIFICATS AT EXHS F, G, H, CONCERNING MEDICAL DEFENDANTS STATEMENT OF UNCONTESTED FACTS. SEE EXH F, BY R. HUTCHINSON DATED 8.28.20, AT 18, 9, EXH G BY E. KAUFFMAN, SIGNED 8.26.20, AGAIN AT 9, 18; EXH H: BY R. PLAYSO, DATED 8.25.20, AT 16, 7; ALL THREE SPEAKING CONCERT. ALSO SEE INITIAL REVIEW RESPONSE TO ORN #638207 DATED: 8.17.16, ② 652393 DATE 11.16.16, ③ 653812, DATED 11.21.16, ④ 681830 DATED 6.19.17, ⑤ 683723 DATE: 6.22.17, ⑥ 687457, DATE: 7.19.17, ⑦ 691018, DATE: 8.9.17, ⑧ 696803, DATED 9.27.17

SEE BRNS #730068, DATED 4.3.18, ③ 770810, DATED 11.14.18, ④ 77

DR. K. DELISMA ① BRNS 782252, DATE: 1.18.19, ② 801220 DATED: 5.5.19, ③ 804914, DATED: 6.3.19, ④ 804481
 D. TESTA: ① 807334, DATED 6.17.19

DR. DELISMA (CONTINUED) DATED: 9.16.19, ⑤ ~~847694~~ 847694, DATED: 1.29.20

PLAINTIFF PURPOSES FOR CITED THE FOREMENTIONED BRIEVANCES-N-VERIFICATION CONCERNING WASHINGTON V. BARNHART, 3:17-CV-0070, IS TO ILLUSTRATE THE FOLLOWING ① FIRST-N-FORMMOST EACH MEDICAL DEFENDANTS ARE SERVED WITH MARSHAL FORMS, AND A COPY OF THE COMPLAINT, WHICH ALSO CITES THE NAME OF OTHER MEDICAL DEFENDANTS, WH-AT FOLLOWS IS PRIOR TO EACH MEDICAL DEFENDANT DRAFTING-N-SIGNING CARBON COPY VERIFICATIONS. IT IS LIKE THEY WERE AWARE. ② WASHINGTON V. BARNHART, 3:17-CV-0070, DOCKET 5.18.17, AS NOTED ABOVE, ALL PERTINENT VERIFICATION WERE SIGN-
 OPP: SJ 3:19-CV-00196 ③

ED PRIOR TO SEPTEMBER 2020, AND MORE THAN THREE YEARS AFTER MEDICAL DEFENDANTS WERE SERVED WITH BOTH THE COMPLAINT-N-MARSHALL FORMS, SO IT IS OBVIOUS THAT MEDICAL DEFENDANTS WERE AWARE THAT EACH DEFENDANT, AND THEIR FELLOW MEDICAL DEFENDANTS WERE BEING SUED.

N.B. AS CITED ABOVE ON MORE THAN A FEW OCCASIONS MEDICAL DEFENDANTS WERE RESPONDANTS TO GRIEVANCES FILED BY PLAINTIFF THEREFORE, FOR MEDICAL DEFENDANTS TO ASSERT IN THEIR VERIFICATION IN WASHINGTON V. BARNHART, 3:17-cv-0070, AND USING DUPLICATE-N-REPETITIVE VERIFICATIONS MEDICAL DEFENDANTS ARE AGAIN ASSERTING TO HAVE NO KNOWLEDGE OF PLAINTIFF SUING THESE MEDICAL DEFENDANTS INDIVIDUALLY, THEIR CO-WORKERS, FRIENDS, FAMILY MEMBERS, AND/OR GRIEVANCEES, IN THE REPETITIVE-N-DUPLICATE VERIFICATIONS-N-REPETITIVE-N-DUPLICATE BRIEFS IN SUPPORT FOR SUMMARY JUDGMENT, AND STATEMENT OF UNCONTESTED FACTS, IN WASHINGTON V. DELISMA, 3:19-cv-0096, ARE NOT FACTUAL, AND UNSUBSTANTIATED ALLEGATIONS.

N.B. MEDICAL DEFENDANTS VERIFICATIONS EXHS D-I, THE DOCUMENTS REFERRED TO IN ~~THE~~ MEDICAL DEFENDANTS BRIEF IN SUPPORT-N-STATEMENT OF UNCONTESTED FACTS, WHICH CONTAIN UNSUBSTANTIATED ALLEGATIONS, ALLEGATIONS ARE NOT FACTS. ANDERSON 477 U.S. 243, 255 (EVIDENCE OF NON MOVANT TO BE BELIEVED)

MEDICAL DEFENDANTS ALLEGED ACTION THAT ENFORCED THEIR THREATS WOULD CONSTITUTE RETALIATION. PLAINTIFF, ~~DOC#~~ AT 443, 57, 60, 63, 84, 89, 97, 100, 101, 110-111, 116, 38

EXHS: 55 AT 10, 14, 23, 26, 34-36, 38, 40-41, EXH: 56 AT I-IX

CHESTNUT V. SMITH 2019 U.S. DIST. LEXIS 9010*4 (3d Cir. JANUARY 18, 2019) (THREATS, REINFORCING ACT ACCOMPANYING THEM, RETALIATION)

9. DOC# 139 AT PP 17, 18. THIRD CIRCUIT CASE LAW DOES NOT DICTATE THAT A PLAINTIFF MUST COMPLETELY STOP EXERCISING HIS RIGHT. THE SECOND PRONG OF THE TEST FOR RETALIATION, INTER ALIA, "ADVERSE ACTION THAT IS SUFFICIENT TO 'DETER' A PERSON OF 'ORDINARY' FIRMNESS FROM EXERCISING HIS FIRST AMENDMENT RIGHTS, ALLAH V. SEIVERLING 329 F.3d 220, 225 (3d Cir. 2000), TEST SUCCESSFULLY STATE, "ORDINARY," "DETER," PLAINTIFF MAY PROBABLY BE A PERSON WITH MORE THAN JUST A ORDINARY FIRM." PLAINTIFF DID NOT ALLEGED PLAINTIFF WAS "STOPPED" FROM FILING, OR NEVER FILING AGAIN, A LAW SUIT OR A GRIEVANCE, NOR COMMUNICATING WITH AUTHORITIES THEN PLAINTIFF HAS SUCCESSFULLY MADE A RETALIATION CLAIM

10. DOC# 139 AT PP 18-19. PLAINTIFF CAN ESTABLISH A PRIMA FACIE CASE OF CAUSATION WITH EVIDENCE OF (1) AN UNUSUAL SUBSTANTIAL TEMPORAL PROXIMITY BETWEEN THE PROTECTED ACTIVITY AND THE RETALIATORY ACTION. (2) A PATTERN OF ANTAGONISM COUPLED WITH TIMING TO ESTABLISH A CAUSAL LINK. BRANT V. VARRANO, 717 F.2d 146, 150 (3d Cir. MARCH 17, 2017); WATSON V. ROZUM, 843 F.3d 417, 424 (3d Cir. AUGUST 23, 2016) (THE TIMING OF THE ALLEGED RETALIATORY ACTION MUST BE UNUSUALLY SUBJECTIVE OF RETALIATORY MOTIVE BEFORE A CAUSAL LINK WILL BE INFERRED. MORE CAUSATION LIKE ANY OTHER FACT CAN BE ESTABLISHED FROM THE EVIDENCE GLEANED FROM

(PLAINTIFF FACTS AT 38, 41-43, 48, 51, 57, 60, 62, 63, 88, 97, 100-101, 111
EXH 55 AT 3-6, 8, 10, 14, 23, 26, 34-41)

EXH 56 AT I-IX

THE RECORD AS A WHOLE. . . IN MOST INSTANCES, PLAINTIFF ALLEGED MEDICAL DEFENDANTS RETALIATORY CONDUCT DURING SICK CALL VISIT IN RESPONSE TO PLAINTIFF COMMUNICATION WITH AUTHORITIES WHICH SLOWED BUT CONTINUED. MORE TIMES THAN NOT, THE DOC STAFF WHO CONDUCTED THE INVESTIGATION OF THE INITIAL BRIEF-ANCE REVIEW WAS CORRECTION DEFENDANT, B.P. HYDE, THE HEALTH CARE ADMINISTRATOR WHICH ENTAILED IMPACT FROM MEDICAL DEFENDANTS WHAT FOLLOWED IS THE NEXT TIME PLAINTIFF WAS ALLOWED TO VISIT MEDICAL IN NEED OF MEDICAL CARE NO MATTER WHICH MEDICAL DEFENDANTS, WHETHER THE NEXT DAY, TWO WEEKS OR A MONTH THE RETALIATORY ACT WAS CONDUCTED. MEDICAL DEFENDANTS ANNOUNCED PRIOR TO AND FOLLOW THE ACTS OF RETALIATION, WHY PLAINTIFF WAS BEING DENIED CARE.

TD! WHEN THE TEMPORAL PROXIMITY IS NOT SO CLOSE AS TO BE UNDUBLY SUGGESTIVE, THE APPROPRIATE TEST IS TIMING PLUS OTHER EVIDENCE. STATEMENTS SATISFY ANY REQUIREMENT FOR OTHER EVIDENCE CONSTITUTIONALLY PROTECTED CONDUCT WAS A SUBSTANTIAL OR MOTIVATING FACTOR BECAUSE MOTIVATION IS ALMOST NEVER SUBJECT TO ~~CONSTITUTIONAL~~ PROOF BY DIRECT EVIDENCE. PLAINTIFF MUST RELY ON CIRCUMSTANTIAL EVIDENCE TO PROVE A RETALIATORY MOTIVE. HE CAN SATISFY HIS BURDEN WITH EVIDENCE OF EITHER A UNUSUALLY SUGGESTIVE TEMPORAL PROXIMITY BETWEEN THE PROTECTED ACTIVITY AND THE ALLEGED RETALIATORY ACTION OR A PATTERN OF ANTAGONISM ~~CONSTITUTIONAL~~ COUPLED WITH TIMING THAT SUGGESTS A CAUSAL LINK.

MEDICAL DEFENDANTS REFERENCED WASHINGTON V. GILMORE, 15:2-CV-1031, AND SCI-GREENE. NOT ONLY DID MEDICAL DEFENDANTS KNOW THE DOCKET NUMBER IN THE NAME OF THE TITLE OF THE LAWSUIT, AND NAMES OF THE DEFENDANTS: N.B. WASHINGTON V. GILMORE, WAS FILED WHILE PLAINTIFF WAS HOUSED AT SCI-SOMERSET AND AFTER SCI-SOMERSET MEDICAL DEFENDANTS HAD VOWED TO PENALIZE PLAINTIFF. MEDICAL DEFENDANTS, AS MENTIONED ABOVE PARTICIPATED IN ALL INVESTIGATIONS TO GRIEVANCES CONCERNING MEDICAL DEFENDANTS. ALL OF THE ALLEGED CONDUCT BEGAN WITHIN DAY-WEEKS, AND MONTHS, AND WENT ON NON STOP. THEREFORE, ALLEGED ALL OCCURRED INSIDE THE SPAN OF MONTHS, NOT YEARS. WHEN THESE ARE REVIEWED BY VIEWING THE EVIDENCE AND ALL JUSTIFIABLE INFERENCES TO BE DRAWN THEREFROM IN THE LIGHT MOST FAVORABLE TO THE NON MOVING PARTY, I.E. PLAINTIFF, BIG APPLE BMW, 974 F.2d AT 1363, WHERE THE NON MOVING PARTY'S EVIDENCE CONTRADICTS THE MOVANTS, THEN THE NON MOVANTS MUST BE TAKEN AS TRUE. TD! THE COURT MUST DETERMINE IF THE RECORD, VIEWED IN THIS LIGHT, CONTAINS A GENUINE DISPUTE OF MATERIAL FACT AS TO WHETHER PLAINTIFF WAS PENALIZED FOR EXERCISING PROTECTED CONDUCT. THE THIRD CIRCUIT HAS ACKNOWLEDGED ACT WHICH ARE DEMONSTRATING INDIVIDUALLY MAY BE SUFFICIENTLY ACTIONABLE WHEN VIEWED AS A WHOLE. SUPPAN 203 F.3d AT 235. SCHAEFF V. DERN 610 F. SUPP 2d 450, 464-465 (W.D. PA 2009)

THE SUPREME COURT NOTED THAT FAILING TO HOLD A BIRTHDAY PARTY FOR A PUBLIC EMPLOYEE AS A PUNISHMENT FOR EXERCISING PROTECTED SPEECH COULD BE CONSIDERED A RETALIATORY ACT FOR PURPOSE OF SATISFYING THE SECOND PRONG.

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11 MEDICAL DEFENDANTS BRIEF IN SUPPORT OF SUMMARY JUDGMENT, Doc[#] 139, p.20 at 4
 FIRST-N-FOREMOST PLAINTIFF DID NOT ALLEGE A DENIAL OF INADEQUATE CARE. PLAINTIFF
 ALLEGED CLAIMS AGAINST MEDICAL (CARE PLAINTIFF WAS DENIED) DEFENDANTS FOR
 THE CARE MEDICAL DEFENDANTS DID NOT PROVIDE; NOT FOR THE CARE MEDICAL DEFEND-
 ANT DID PROVIDE. Doc[#] 127 AT 45; 49-51; 53-57; 62; 84
 EXH: 55 AT 5; 7; 19; EXH 56 AT I-IX

NO CLAIMS ARE ALLEGED FOR A DENIAL OF CARE FOR WHIPPLES DISEASE.
 EXPLAINING WHAT OTHER MEDICAL PROFESSIONALS IN THE DOC DIAGNOSED IS NOT ALLEG-
 ING MEDICAL DEFENDANTS DENIED PLAINTIFF MEDICAL CARE FOR WHIPPLES DISE-
 ASE, PLAINTIFF ALSO EXPLAINED THAT THE ONGOING SYMPTOMS EXHIBITED IN THE FINDING
 OF LABORATORY TEST, THOSE SYMPTOMS IMPLY THAT PLAINTIFF HAS WHIPPLES DISEASE.
 AGAIN, PLAINTIFF DID NOT ALLEGE A DENIAL OF CARE FOR WHIPPLES DISEASE.

N.B. MEDICAL DEFENDANTS CO WORKER, MEDICAL PROFESSIONALS AT OTHER PRISON, A
 GASTROENTEROLOGIST, MEDICAL DEFENDANTS OWN LABORATORY TEST, THE SYMPTOMS PL-
 AINTIFF, AND PLAINTIFF FAMILY HISTORY ALL IMPLY THAT THE CHANCES ARE PLAINT-
 IFF HAS WHIPPLES DISEASE, THEN, PLAINTIFF SHOULD NOT BE PENALIZED FOR REPEAT-
 ING THOSE FINDINGS PLAINTIFF FACTS, Doc[#] 127 AT 13; 52; 61; 6; 93; 102 EXH 55 AT 15; 16

N.B. NO CLAIMS ARE ALLEGED FOR DENIAL OF CARE FOR WHIPPLES
 PLAINTIFF HAS MET THE BURDEN VIA PLAINTIFF UNDISPUTED STATEMENT OF FACTS, Doc[#] 127
 AND EXHIBITS: 1-56.

THERE WAS NO NEED TO SHOW MEDICAL DEFENDANT DID NOT PROVIDE MEDICAL CARE BASED
 ON A CLAIM NOT ALLEGED

A VISIT TO MEDICAL DEFENDANTS FREQUENTLY, OR TO IMPLY THAT PLAINTIFF RECEIV-
 ED AN EXTRAORDINARY AMOUNT OF CARE BASED ON A MEDICAL DEFENDANTS DRAFT-
 ED MEDICAL RECORD CONCERNING PLAINTIFF FOR SEVERAL SERIOUS HEALTH PRO-
 BLEMS THEREFORE, MEDICAL DEFENDANT CANNOT BE FOUND TO HAVE BEEN DELIBER-
 ATE INDIFFERENT TO PLAINTIFF SERIOUS MEDICAL NEEDS. THERE IS NOTHING IN THE
 RECORD TO SUBSTANTIATE THIS SUBJECTIVE ASSESSMENT, IN LIGHT OF PLAINTIFF
 HAVING MANY SERIOUS MEDICAL NEEDS, i.e. UNABLE TO RAISE VOICE ABOVE A WHISPER,
 HEART VALVE DISEASE, URETHRAL STRICTURE, DRIPPING SEMEN, RIGHT LEG SWOLLEN
 BEYOND NORMAL SIZE, BOTH FEET ENCASED IN CALLUSES-N-OPEN SORES, ALL TOE NAILS
 TOTALLY BLACK OFTEN DISCHARGING PUS-N-BLOOD BROUGHT ON BY A FOOT FUNGUS THAT HAS
 ADVANCE UP PLAINTIFF LEGS ABOVE THE KNEES, NEAR BLINDNESS RIGHT EYE THAT AT
 TIMES DISCHARGED PUS-N-BLOOD, etc. WHICH PLAINTIFF FREQUENTLY SOUGHT
 MEDICAL CARE FOR. . . IT IS QUESTIONABLE WHETHER PLAINTIFF RECEIVED MEDICAL
 ATTENTION AND CARE FOR EACH OF THOSE SERIOUS MEDICAL CONDITIONS, WHICH SH-
 OULD INCLUDE COVID-19 SYMPTOMS, WHICH PLAINTIFF SOUGHT TREATMENT THROUGHOUT
 THE PERIOD PERTINENT TO THIS LEGAL ACTION, AND FOR THOSE SERIOUS MEDICAL NEEDS
 FOR WHICH PLAINTIFF ALLEGEDLY DID RECEIVE CARE AND TREATMENT, WHETHER IT WAS
 CONSTITUTIONALLY ADEQUATE

SIMPLY TO SUPPLY SOME OR EVEN FREQUENT CARE TO A PRISONER DOES NOT, OR IT-
 OPP: SJ 3:19-CV-00196 (11)

SELF INSULATE PRISON OFFICIALS AND RESPONSIBLE MEDICAL PERSONNEL FROM LIABILITY UNDER 42 USC 1983 FOR DELIBERATE INDIFFERENCE TO A PRISONER'S SERIOUS MEDICAL NEEDS. HOUSER V. FOLINO, 2014 U.S. DIST. LEXIS 181095 *51, 52 (3d CR. JUNE 24, 2014); PEARSON V. PRISON HEALTH SERVICES, 526, 519 FED 79, 84 (3d CR. MARCH 11, 2013) (INMATE WAS SUBJECT OF 32 PHYSICIANS' ORDERS AND 72 PROGRESSIVE NOTES, BUT THE NUMBER OF ENTRIES IN THE MEDICAL RECORD DOES NOT NECESSARILY DEMONSTRATE THAT HE RECEIVED CONSTITUTIONALLY SUFFICIENT CARE) TD 91 F.2d AT 68 N. 9 (DIAGNOSIS IS NOT EQUIVALENT TO TREATMENT, A DEFENDANT MIGHT BE DELIBERATE INDIFFERENT TO A PRISONER'S SPECIFIC MEDICAL NEEDS REGARDLESS OF HOW MANY DOCTORS HE SENDS HIM TO FOR DIAGNOSIS) VARNER V. JIN, 2014 U.S. DIST. LEXIS 75246 *3 (3d CR 2014) (FACT THAT PRISONER WAS SEEN ON 33 OCCASIONS DURING THE PERIOD IN QUESTION DOES NOT NECESSARILY DEMONSTRATE THAT HE RECEIVED CONSTITUTIONALLY ADEQUATE MEDICAL CARE) CASE AND POINT, PLAINTIFF WAS SEEN OCCASIONALLY FOR BLOOD PRESSURE, WEIGHT CHECK, LABORATORY WORK, AND REFERRAL FOR PLAINTIFF LEFT EYE, NOT! THE "RIGHT EYE", IS PRETTY MUCH OF A NON SEQUITUR. ON THE QUESTION ON THE MEDICAL CARE PROVIDED FOR THE SPECIFIC AILMENTS AND CONDITIONS OF ~~THE~~ WHICH PLAINTIFF HAS BEEN COMPLAINING, AND SERIOUS MEDICAL NEEDS ARE THE SUBJECT OF THIS LAWSUIT. HOUSER V. FOLINO, 2014 U.S. DIST. LEXIS 181095 *52 (3d CR 2014) PLAINTIFF FACT, DOCS #27 AT 11; 38; 41-45; 50-52; 58; 84; 96; 14; 49; EXH: 55 AT 4-8; 18; 19; 23; 11; EXH: 56 AT I-IX THESE ARE THE SAME ISSUES MEDICAL DEFENDANTS SUBMITTED IN DEFENDANTS BRIEF IN SUPPORT OF SUMMARY JUDGMENT, PAGE PER PAGE, A REPETITIVE, DUPLICATE - N- REDUNDANT PLEADING, SEE MEDICAL DEFENDANTS BRIEF IN SUPPORT OF SUMMARY JUDGMENT IN WASHINGTON V. BARNHART 3:17-CV-0070; COMPARE: BRIEF IN SUPPORT OF SUMMARY JUDGMENT IN WASHINGTON V. DELISMA, 3:19-CV-00196; PLAINTIFF WAS PENALIZED, WILL MEDICAL DEFENDANTS BE PENALIZED?

12. MEDICAL DEFENDANTS HAVE INVESTED A VERY LOT OF ENERGY IN CREATING A RED HERRING BY USING WHIPPLES DISEASE. NO CLAIMS ARE ALLEGED BY PLAINTIFF AGAINST MEDICAL DEFENDANTS FOR NOT PROVIDING CARE FOR WHIPPLES

13. NOW, IT APPEARS TO BE CHIC FOR THE LAW FIRM, "GOLD + FERRANTE, P.C." TO MOCK PLAINTIFF FOR PSYCHOLOGICAL PROBLEMS, MEDICAL DEFENDANTS HAVE HABITUALLY MOCKED PLAINTIFF FOR 6-PLUS YEARS, THIS COURT HAS ACTED AS IF EVERYTHING IS JUST HONKIE DOOREY. NOW "GOLD + FERRANTE, P.C." HAS JOIN IN ON WHAT APPEARS TO ACCEPTABLE ESPECIALLY WHEN THE PERSON BEING MOCKED IS BLACK. HAD PLAINTIFF DONE SO TO WHITES, ALL OF THE MEDICAL DEFENDANTS ~~BEING~~ ARE WHITE, PLAINTIFF WOULD BE PENALIZED SEVERELY.

14. DEFENDANTS MEDICAL DEFENDANTS, REFER TO EXH C, THE DOCUMENT MEDICAL DEFENDANTS REFERS TO ARE DRAFTED BY MEDICAL DEFENDANTS, ARE ALLEGATIONS, AS THE MOVING PARTY, MEDICAL DEFENDANTS IS NOT ALLOWED MAKE ALLEGATIONS TO CREATE A BENEFITING FACT, OR TO DEMONSTRATE THERE ARE NO FACTS IN DISPUTE, ANDERSON V. LIBERTY LBBX INC., 477 U.S. 242, 255, 106 S.Ct. 2505 (1986); FAC P 56 (f). - THESE ALLEGATIONS ARE NOT FACTS, MEDICAL DEFENDANT MUST PRODUCE FACTUAL SUPPORTIVE DOCUMENTATION AND HAS NOT

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QUITE THE OPPOSITE TO MEDICAL DEFENDANTS EXH C, PLAINTIFF UNDISPUTED STATEMENT OF FACTS, DOC #127 DETAILS HOW PLAINTIFF WAS NOT SEEN, AND OFTEN TOLD TO LEAVE, WITHOUT TOUCHING PLAINTIFF PHYSICALLY, PLAINTIFF DRAFTED EACH SICK CALL REQUEST PER DC-ADM 820, SEE DOC #127 AT 41, 96, 58 EXH: 55 AT 4-6

15. MEDICAL DEFENDANTS REFER TO EXHS D-I, VERIFICATIONS, THE DOCUMENTS ARE SELF-SERVING. THESE DOCUMENTS ARE MEDICAL DEFENDANTS ALLEGATIONS, ALLEGATIONS ARE NOT FACTS, MEDICAL DEFENDANTS, THE MOVING PARTY, MUST NOT RELY ON UNSUBSTANTIATED ALLEGATION OR VERIFICATION TO CREATE A GENUINE FACT OR TO SHOW NO GENUINE FACT EXIST, ANDERSON, 477 U.S. 242, 255; FRCP: 56©. THE MOVING PARTY, MEDICAL DEFENDANTS, MUST DO MORE THAN SUBMIT SELF-SERVING VERIFICATIONS TO DEMONSTRATE NO GENUINE ISSUE EXIST.

16. MEDICAL DEFENDANTS MOTION FOR SUMMARY SHOULD BE DENIED IN LIGHT OF THE ADVERSE ACTION OF DENYING PLAINTIFF MEDICAL CARE, DIAR-CRUZ V. SYMONS 2016 U.S. DIST. LEXIS 147918*42, 43 (M.D. PA. OCTOBER 16, 2016); HUGHES V. SMITH, 2015 U.S. DIST. LEXIS 2783*14 (E.D. PA. FEBRUARY 24, 2016) (DENIAL OF MEDICAL CARE CAN CONSTITUTE AN ADVERSE ACTION FOR THE PURPOSE OF A RETALIATION CLAIM), CORTLESSA V. COUNTY OF CHESTER, No. 2005 U.S. DIST. LEXIS 25013*20 (E.D. PA. OCTOBER 24, 2005) (DENYING MOTION TO DISMISS RETALIATION WHERE PLAINTIFF ALLEGED HE WAS DENIED ADEQUATE MEDICAL ASSISTANCE BY PRISON OFFICIALS IN RETALIATION FOR ATTEMPTING TO FILE GRIEVANCES)

PLAINTIFF INDEED PROVIDE SUPPORTING EVIDENCE TO PLAINTIFF FACTS, DOC #127 THAT MEDICAL DEFENDANTS ACTIONS DEMONSTRATE DELIBERATE INDIFFERENCE TO PLAINTIFF SERIOUS MEDICAL NEEDS, AND NONSTOP PAIN-N-DISCOMFORT

PLAINTIFF FACTS, DOC #127 AT 6, 9-20, 38, 41-44, 48-63, 84-88, 91-96, 100-102, 110 EXH: 55 AT 5-8, 19, 35-41; EXH: 56 AT I-IX.

SEE MEDICAL DEFENDANTS EXH: ① 153-8, P. 23, DEF 000573, RIGHT EYE; ② 20/200, ③ MAY NEED OPTICAL LOGIST, DOC #153-8, P. 52, DEF 000371; ④ UNABLE TO SEE FROM RIGHT EYE, DOC #153-8, P. 61; DEF 000304; ⑤ SEE BELOW AT PP AT 32, 43, INFORMATION WITHHELD FROM PLAINTIFF-N-MEDICINE-N-THERAPY WITHHELD, FOR HYPERACTIVE BOWEL SOUNDS, EKG INDICATED LEFT VENTRICULAR HYPERTROPHY CONSISTENT WITH HYPERTENSION, CARDIAC MURMUR SUGGESTIVE OF MITRAL VALVE PROLAPSE WITH POSSIBLE MITRAL REGURGITATION, NO CARE AND/OR SEVERE VENOUS INSUFFICIENCY AND STASIS DERMOPATHY, SEVERE ONYCHOMYCOSIS; HEART RATE OF 54; LEFT FOOT HAS LATERAL SOLE CALLUS; ALSO SEE DOC #153-8, P. 102, DEF 000102; GASTRITIS, IF SO IT WAS KEPT IN SECRET FROM PLAINTIFF, AND THE MEDICINE WAS NOT PROVIDED, DEF 000303, AT 9, 16, 16; SECRET-N-DID NOT OCCUR, DEF 000290, AT 1, 3, 17.

17. N.B. MEDICAL DEFENDANTS MUST DO MORE THAN RELY ON HEARSAY. PLAINTIFF, THE NON MOVANT OBJECT TO MEDICAL DEFENDANTS, THE MOVING PARTY, HAS THROUGHT OUT THEIR BRIEF IN SUPPORT OF SUMMARY JUDGMENT. REPEATED THE THEME, PLAINTIFF DOES NOT HAVE WHIPPLES DISEASE, ALTHOUGH PLAINTIFF DID NOT ALLEGED A CLAIM AGAINST ~~PLAINTIFF~~ MEDICAL DEFENDANTS FOR NOT PROVIDING CARE FOR WHIPPLES DISEASE, BECAUSE THE MOVANT CONTINUOUSLY PROFESS WITH OUT PROOF, THAT PLAINTIFF DOES NOT HAVE WHIPPLES DISEASE, MEDICAL-

DEFENDANTS ARE IN VIOLATION OF FRCP 56, WHICH PROVIDES INTER ALIA "AN AFFIDAVIT OR DECLARATION USED TO SUPPORT OR OPPOSE A MOTION MUST BE MADE ON PERSONAL KNOWLEDGE, SET OUT FACTS THAT WOULD BE ADMISSIBLE IN EVIDENCE, AND SHOW THAT THE AFFIDANT OR DECLARANT IS COMPETENT TO TESTIFY ON THE MATTERS STATED". CANNIX STAGE OIL CO. INC. V. TRAVELERS INS. CO., 928 F.2d 474, 482 (D.N.J., 1995) (ONLY EVIDENCE WHICH IS ADMISSIBLE AT TRIAL MAY BE CONSIDERED IN RULING ON A MOTION FOR SUMMARY JUDGMENT). THIS RULE APPLIES WITH PARTICULAR FORCE TO MOTIONS ATTEMPTS TO RELY UPON HEARSAY STATEMENTS TO ESTABLISH MATERIAL ISSUES OF FACT WHICH WOULD PRECLUDE SUMMARY JUDGMENT.

THE MERELY POSSIBILITY THAT A HEARSAY STATEMENT WILL BE ADMISSIBLE AT TRIAL DOES NOT PERMIT ITS CONSIDERATION AT THE SUMMARY JUDGMENT STAGE. CONLEY V. CARNESLE MECHAN UNIV. 205 U.S. DIST. LEXIS 18324 *9 (W.D. PA, AUGUST 29, 2005)

WHERE A PARTY SIMPLY PRESENTS INADMISSIBLE HEARSAY DECLARATIONS IN AN ATTEMPT TO ESTABLISH A DISPUTED MATERIAL ISSUE OF FACT, COURTS HAVE TYPICALLY REBUFFED THOSE EFFORTS AND HELD INSTEAD THAT SUMMARY JUDGMENT IS APPROPRIATE. SYNTHES V. GLOBUS MEDICAL, INC. 2007 U.S. DIST. LEXIS 50812 (E.D. PA, JULY 12, 2007)

THEREFORE, IN A CASE WHERE THE PARTIES PLEADINGS REVEALS DISPUTES REGARDING THE ADMISSIBILITY OF SPECIFIC EVIDENCE, THE PRINCIPLE GOVERNING CONSIDERATION OF SUMMARY JUDGMENT MOTIONS WHICH ENJOINS THE COURT TO EXAMINE THE EVIDENCE IN A LIGHT MOST FAVORABLE TO THE PARTY OPPOSING THE MOTION ALSO MAND THE COURT TO RESOLVE ALL GENUINE DISPUTES CONCERNING THE ADMISSIBILITY OF SPECIFIC ITEMS OF EVIDENCE IN FAVOR OF THE PARTY OPPOSING THE MOTION. THE PRINCIPLE APPLIES WITH PARTICULAR FORCE TO FACTUAL DISPUTES WHICH RELATE TO MATTERS OF MOTIVE OR INTENT SINCE IT IS WELL SETTLED THAT THE MOTIVE OR ABSENCE OF MOTIVE OF A PARTY TO ENGAGE IN CONDUCT ALLEGED BY ANOTHER PARTY IS RELEVANT TO DETERMINING WHETHER A GENUINE ISSUE OF FACTS. MATSUSHITA Elec. INDUS. CO. V. ZENITH RADIO CORP. 475 U.S. 574, 596, 104 S.Ct. 1348 (1986)

HEARSAY: FIRST-IN-FOREMOST BASED ON THE INFORMATION PROVIDED BY MEDICAL DEFENDANTS IN EXHIBITS D-I, NONE OF THE MEDICAL PROFESSIONS TO BE A RADIOLOGIST, OR ONTO LARYNGOLOGIST, ENT, OPHTHALMOLOGIST, GASTROENTEROLOGIST, PEDIATRISTS, UROLOGIST, DERMATOLOGIST. YET ALL DECLARED TO PLAINTIFF ONLY

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SOMEONE WITH SPECIAL SKILLS CAN TREAT PLAINTIFF SERIOUS HEALTH PROBLEMS. PLAINTIFF FACTS; Doc# 127 AT 6, 15, 44, 93, 114, 115;

IT IS SELF EVIDENT THAT NO TWO MEDICAL DEFENDANTS PROVIDED PLAINTIFF CARE AT THE SAME TIME, SO FOR ONE MEDICAL DEFENDANT ^{AS TO} STATE IN THEIR VERIFICATIONS OF SOME OTHER MEDICAL DEFENDANT OR SPECIALIST PERFORM SURGERY IS TESTIMONY NOT GIVEN FROM PERSONAL PARTICIPATION OR HAVING PERSONAL KNOWLEDGE OF THE EVENT STATED IN EACH VERIFICATION CANNOT BE. THIS IS A DIRECT VIOLATION OF PROP 56, INTER ALIA "MUST BE MADE ON PERSONAL KNOWLEDGE". THEREFORE THE ALLEGATIONS TANTAMOUNT TO HEARSAY.

DEFENDANTS MEDICAL DEFENDANT, THE MOVING PARTY SUBMITTED INADMISSIBLE EVIDENCE BY THE USE OF VERIFICATIONS TO SUPPORT MEDICAL DEFENDANTS MOTION FOR SUMMARY JUDGMENT. THE NON MOVANT OBJECT TO THE MATERIAL CITED IN EXHIBITS, D-I R. 9, (1) EXH D AT 3 INTER ALIA "I CONTINUE TO TREAT WASHINGTON TO THE PRESENT", THIS IS YET ANOTHER ASSERTION, "HAVE KNOWLEDGE", (2) EXH D AT 8 "THE OTHER MEDICAL PROVIDERS WOULD SEE WASHINGTON FOR ANY ACUTE ISSUES", THAT'S HEARSAY, (3) EXH D AT 9, MEDICAL DEFENDANTS SHOULD ^{NOT} BE ALLOWED TO SAY-ASSERT THINGS UNSUBSTANTIATED, i.e. ~~AND~~ WASHINGTON DOES NOT HAVE WHIPPLES DISEASE, I AND OTHERS, HAVE INFORMED OF THIS", THIS IS HEARSAY. WHERE IS THE SIGNED DOCUMENT OF PLAINTIFF TAKING A TEST FOR WHIPPLES? N.B. A TEST FOR WHIPPLES REQUIRES A BIOPSY, WHICH IS INVASIVE SURGERY. NO MEDICAL DEFENDANTS ARE GASTROENTEROLOGIST, A BIOPSY CANNOT BE DONE INSIDE OF SCI-SOMERSET MEDICAL DEPARTMENT AREA. THEREFORE, A SIGNED CONSENT IS A MUST. MEDICAL DEFENDANTS ARE NOT PATHOLOGIST, EITHER. THEREFORE, ALL OF MEDICAL DEFENDANTS ARE NOT COMPETENT TO TESTIFY ON THE MATTER STATED, PER PROP 56, (4) EXH D AT 11, "THIS WOULD (EQD) (AND BIOPSY) HAVE DIAGNOSED WHIPPLES DISEASE, MORE HEARSAY, SEE PLAINTIFF EXH. 25 AT P. 5 N.B. CELIAC DISEASE AND WHIPPLES ARE NOT ONE-N-THE-SAME, N.B. PLAINTIFF WAS TOLD THAT PLAINTIFF WAS BEING TESTED FOR WHIPPLES, AND NO TEST FOR WHIPPLES' DISEASES WAS PROVIDED. N.B. FIRST-N-FOREMOST, NO CLAIMS FOR MEDICAL DEFENDANTS NOT PROVIDING CARE FOR WHIPPLES' DISEASE WERE MADE; NO CLAIM ARE MADE DATES AFTER 5.20.20; ARE ALLEGED. PLUS THE INFORMATION, SOLELY FOR THE SAKE OF ARGUMENTAL, STILL WOULD BE HEARSAY, EVEN IF WAS ACTUALLY A TEST FOR WHIPPLES, AND DONE PRIOR TO 5.20.20; HOWEVER, IN ACTUALITY PLAINTIFF WAS NOT PROVIDED A TEST FOR WHIPPLES, NOR DID THE TEST FOR "CELIAC" OCCUR PRIOR TO 5.20.20; AND ~~THE~~ MEDICAL DEFENDANTS MISLED PLAINTIFF TO BELIEVE PLAINTIFF WAS TO UNDERGO A TEST FOR WHIPPLES' DISEASE. N.B. PLAINTIFF EXHIBITS 25 AT P. 5 "UPPER GASTROINTESTINAL ENDOSCOPY AND ENTEROSCOPY" PROVIDE INTER ALIA "A SMALL FLEXIBLE TUBE WITH A LIGHT TO SEE THE UPPER GI TRACT. A HEALTH CARE PROVIDER WILL PLANCE AN INTRAVENOUS (IV) NEEDLE IN A VEIN IN THE ARM OR HAND TO ADMINISTER SEDATION", "A BIOPSY IS A PROCEDURE THAT INVOLVES TAKING A PIECE OF TISSUE FOR EXAMINATION WITH A MICROSCOPE, A PATHOLOGIST AND DOCTOR WHO SPECIALIZES IN EXAMINING TISSUE TO DIAGNOSE DISEASE-EXAMINE ~~THE~~ TISSUE FROM THE STOMACH IN A LAB"

THE PATHOLOGIST APPLIES A SPECIAL STAIN TO THE TISSUE AND EXAMINE IT FOR T. WHIPPLEI INFECT-
ED CELLS WITH A MICROSCOPE. ONCE THE PATHOLOGIST COMPLETES THE EXAMINATION OF THE TISSUE,
HE OR SHE SENDS A REPORT TO THE GASTROENTEROLOGIST FOR REVIEW. TO DO THOSE PROCEDURE
REQUIRE SURGERY. NO! PLAINTIFF WAS NOT RECEIVING TREATMENT FOR HIATAL HERNIA,
UNTIL PLAINTIFF READ EXH'D AT 11 PLAINTIFF WAS 'NOT' TOLD THAT PLAINTIFF HAD
BEEN DISCOVERED TO HAVE SUFFERED A HIATAL HERNIA INJURY. (5)

EXH'D AT 12, MEDICAL DEFENDANTS MUST DO MORE THAN MAKE BARE ALLEGATION, USE
HEARSAY, SPECULATION IN A VERIFICATION TO SUPPORT MEDICAL DEFENDANTS MOTION
FOR SUMMARY JUDGMENT. FIRST, MEDICAL DEFENDANTS ADMIT THE BIOPSY DID REQUIRE
SURGERY WHEN MEDICAL DEFENDANTS, STATE "THE SURGICAL BIOPSY REPORT". AGAIN
THIS IS HEARSAY, MEDICAL DEFENDANTS ARE NOT PATHOLOGIST OR GASTROENTEROLOG-
IST, WHAT FOLLOWS IS MEDICAL DEFENDANTS ARE NOT COMPETENT TO TESTIFY ON THE MAT-
TER STATED, MEDICAL DEFENDANTS ALLEGATION IS TANTAMOUNT TO HEARSAY, FRCP 56
AGAIN A TEST FOR CELIAC DOES NOT EQUATE TO A TEST FOR WHIPPLES DISEASE.

(6) EXH'D AT 13, "I HAVE TREATED HIM FOR THESE ISSUES (HEARING LOSS, POOR-
EYESIGHT) AS WELL AS FOOT AND STOMACH ~~PROBLEMS~~ PROBLEMS, N.B. ALL MEDICAL DE-
FENDANT DIDNT TOUCH PLAINTIFF PHYSICALLY-N-HABITUALLY THREW PLAINTIFF
OUT, MEDICAL DEFENDANTS IN EACH VERIFICATIONS, EXH'D-I, CONTINUOUSLY
PROFESS ABOUT THE EXTRA AMOUNT OF CARE PROVIDED TO PLAINTIFF. PLAINT-
IFF HAS ALLEGED NO CLAIMS CONCERNING THE CARE MEDICAL ~~DEFENDANTS~~ DEFENDANTS
PROVIDED, PLAINTIFF ALLEGED DELIBERATE INDIFFERENT BASED ON THE CARE
PLAINTIFF WAS DENIED. PLAINTIFF FACTS AT 20, 45, 84-88, 93-96, 102, 110

THE MOVANT ARE NOT COMPETENT TO TESTIFY ON THE MATTER STATED, FRCP 56
MOVANTS CONTINUOUSLY PROCLAIM TO PROVIDE CARE WITH NO SIGNED DOCUMENTS TO
VERIFY SUCH PROFESSED PROVISION OF CARE, THESE ARE UNSUBSTANTIATED CLAIMS, MADE
TO SHOWN NONMOVANT HAD NO ISSUE FOR TRIAL

(7) EXH'D AT 14 INTER ALIA, "I ALSO SET HIM UP TO SEE ME IN ONE MONTH TO REASSES
HIS ABDOMINAL CONDITION". N.B. HERE IS THE EVIDENCE OF DELIBERATE INDIFFERENT.
FIRST MEDICAL DEFENDANTS WOULD PENALIZE PLAINTIFF VIA DENIAL OF MEDICAL CARE,
PLAINTIFF ON THE FEW OCCASIONS PLAINTIFF WAS ALLOWED TO APPEAR BEFORE MED-
ICAL DEFENDANTS, MEDICAL DEFENDANTS SENT PLAINTIFF AWAY WHILE IN NON-
STOP PAIN-N-DISCOMFORT AS PLAINTIFF BEGGED FOR PAIN MEDICINES, THE PAIN-N-
DISCOMFORT CONTINUED, SO PLAINTIFF SUBMITTED TWO-THREE SICK CALL RE-
QUESTS PER WEEK ALL DRAFT IN ACCORDANCE TO DOC POLICY DC-ADM 820, MEDICAL
DEFENDANTS SUMMARILY DISCARDED PLAINTIFF TIMELY SUBMITTED SICK CALL RE-
QUESTS, LEAVING PLAINTIFF IN UNDUE PAIN-N-SUFFERING, THE ENTIRE TIME MEDICAL
DEFENDANTS VISITED PLAINTIFF HOUSING UNIT, REFUSED TO SEE PLAINTIFF, MEDI-
CAL DEFENDANTS TAUNTED PLAINTIFF AS DEFENDANTS SPOKE IN PASSING PLAINTIFF DOOR,
PLAINTIFF FACTS: 20, 38, 41-44, 48-63, 88, 94-96, 102, 110, ESPECIALLY: 14, 96, 58, 6, 93
EXH: 55 AT 4, 14, 23, 26, 3-8, 10, 17

MEDICAL DEFENDANTS ALLEGATIONS AT EXH 14, ARE NOT FACTS AND DO NOT ESTAB-
OPP: ~~SP~~ 3:19-CV-00196 (16)

LISH THE ABSENCE OF A GENUINE DISPUTE, PER FRCP 56. ANDERSON V. LIBERTY LOBBY, INC. 477 U.S. 247-248, 100 S. CT. 1505 (1986) (THE REQUIREMENT IS THAT THERE BE NO GENUINE ISSUE OF MATERIAL FACTS) A DISPUTED FACT IS "MATERIAL" IF PROOF OF ITS EXISTENCE OR NON-EXISTENCE WOULD AFFECT THE OUTCOME OF THE CASE UNDER APPLICABLE SUBSTANTIVE LAW. AT 248; GRAY V. YORK NEWSPAPERS, INC. 957 F.2d 1070, 1078 (3d CR. 1992), A DISPUTE IS "GENUINE" IF THE EVIDENCE IS SUCH THAT A REASONABLE JURY COULD RETURN A VERDICT FOR THE NONMOVING PARTY. ANDERSON 477 U.S. AT 257; BRENNER V. LOCAL 514, UNITED BHD. OF CARPENTERS AND JOINERS OF AMERICA 927 F.2d 1283, 1287-1288 (3rd CR. 1991) GALLI V. NEW JERSEY MEADOWLANDS COMM'N 490 F.3d 265, 270 (3rd CR. 2007) (FRCP 56); WHILE THE EVIDENCE OF THE NON MOVING PARTY EITHER DIRECT OR CIRCUMSTANTIAL AND NEED NOT BE AS A PRE-PONDERANCE, THE EVIDENCE MUST BE MORE THAN A SCINTILLA)

HOUSER V. FOLINO, 2014 U.S. DIST LEXIS 181095 *103 (3d CR. JUNE 24, 2014) (FAILURE TO EDUCATE PATIENT AS TO SIDE OF MEDICATION) ②

EXH'D AT 15, SAME AS AT 14 ③

EXH'D AT 16. NO CLAIMS ARE ALLEGED AGAINST MEDICAL DEFENDANTS FOR NOT PROVIDING MEDICATION FOR WHIPPLE DISEASE

⑩ EXH'D AT 17. N.B. MEDICAL DEFENDANTS REFERENCES MEDICAL RECORDS PP. 438-440, 430-432, 382-384, 370-375, 376-378; MEDICAL DEFENDANTS RECORDS ARE SELF SERVING DOCUMENTS CONTAINING ASSERTIONS UNSUBSTANTIATED BY SIGNED CONSENT, INTRODUCED TO THIS ACTION FOR INTENT OF DEMONSTRATING THE ABSENCE OF A MATERIAL FACT, AND HAVING HEARSAY PURPORTED TO BE FACT, - AGAIN MEDICAL DEFENDANTS OPENLY ADMITS DELIBERATE INDIFFERENT, i.e. "THESE WERE A LOSS OF VISION IN HIS RIGHT EYE". FIRST-AND-FORMOST, NO CLAIMS CONCERNING PLAINTIFF EYE IS ALLEGED AGAINST MEDICAL DEFENDANTS ON OR NEAR 2, 8, 19. . . . FOR THE SAKE OF ARGUMENTS, FOR MEDICAL DEFENDANTS, HAVING PLAINTIFF, WHO EXPERIENCED PROBLEMS IN THE PAST WITH PLAINTIFF RIGHT EYE; NOW PLAINTIFF HAVING LOSS SIGHT IN RIGHT EYE, TO SEND PLAINTIFF AWAY WITH NO SIGHT IN RIGHT EYE. INSTEAD OF EMERGENCY MEDICAL CARE BY OPHTHALMOLOGIST, MEDICAL DEFENDANT RECORDS ARE NOT FACTS, PLAINTIFF UNDISPUTED STATEMENT OF FACTS PROVIDES A FACTUAL ACCOUNT OF MEDICAL DEFENDANTS CONDUCT,

⑪ EXH'D AT 18, MEDICAL DEFENDANTS REFERENCES MEDICAL RECORDS CONTAINS HEARSAY, AND SELF SERVING STATEMENTS DRAFTED BY DEFENDANTS WITH INTENTS OF DEMONSTRATING THE MOVING PARTY ESTABLISHED A MATERIAL FACT, AND MEDICAL DEFENDANTS FAILED TO DO SO; GALLI 490 F.3d AT 270, DOC #127 PROVIDES FACTUAL ACCOUNT

⑫ EXH'D AT 19, NO CLAIM IS ALLEGED AGAINST MEDICAL DEFENDANT ON OR NEAR 2, 22, 19, EXH'D AT 19 INTERJECTS HEARSAY, WHICH FAILED TO ESTABLISH THE ABSENCE OF A MATERIAL FACT, PER FRCP 56, ANDERSON 477 U.S. AT 248

⑬ EXH'D AT 20 NO CLAIM IS ALLEGED AGAINST MEDICAL DEFENDANT FOR DENIAL OF CARE FOR WHIPPLE'S DISEASE. THE REQUIREMENT OF MEDICAL DEFENDANTS IS TO ESTABLISH THE ABSENCE OF A GENUINE DISPUTE, AND FAILED TO DO SO. SEE DOC #17 AT 16, 19-20, 38, 39, 41-45, 48-63, 84, 88, 93-97, 102, 110, 111, OPP: SJ 3:19-CV-00196

(17)

FOR THE SAKE OF ARGUMENT. BASED ON LABORATORY TEST PLAINTIFF DOES NOT HAVE SYMPTOMS OF WH-
TYPING DISEASE. SEE DOC #127 AT 6, 13, 52, 60; EXH 56 AT I-IX EXH: 55 AT 15, 16; EXH: 56 AT I-IX

CELOTEX CORP, 477 U.S. 317, 323, 104 S.Ct. 2549 (1986) (MOVING PARTY MUST DEMONSTRATE THE
ABSENCE OF GENUINE ISSUE OF MATERIAL FACT) (14)

(14) EXH: D AT 21, MEDICAL DEFENDANTS DENIALS ARE NOT FACTS, AS THE MOVING PARTY
MEDICAL DEFENDANTS ARE REQUIRED TO DEMONSTRATE A ABSENCE OF A GENUINE ISSUES
OF MATERIAL FACT, AND FAILED (15)

(15) EXH: D AT 22, MEDICAL DEFENDANTS VERIFICATIONS ARE SELF-SERVING, FOR ACCURATE AC-
COUNT OF MEDICAL DEFENDANTS CONDUCT SEE DOC #127, MEDICAL DEFENDANTS MUST DE-
MONSTRATE THAT NO GENUINE ISSUE OF MATERIAL FACT, AND FAILED (16)

(16) EXH: D AT 23, MEDICAL DEFENDANTS, THE MOVANTS MUST DO MORE THAN DENY, DEFEND-
ANTS ARE REQUIRED TO PROVE, AS THE MOVANTS, THAT THE NON MOVANTS CASE IS ABSENT
OF MATERIAL/GENUINE MATERIAL FACT, (CELOTEX 477 U.S. AT 323) AND FAILED (17)

(17) EXH: D AT 24, MEDICAL DEFENDANTS, MUST DO MORE THAN USE ALLEGATIONS, AND
HEARSAY TO ESTABLISH A DISPUTED MATERIAL ISSUE OF FACT, SUMMARY JUDGMENT IS APPRO-
PRIATE). MEDICAL DEFENDANTS, THE MOVANTS MUST ESTABLISH THE ABSENCE OF GEN-
UINE MATERIAL FACT, AND FAILED TO DO SO COUNTRYSIDE OIL CO. INC. V. TRAVEL-
ERS INC. CO., 938 F.Supp. 474, 482 (D.N.J. 1995) (ONLY ADMISSIBLE EVIDENCE AT TRIAL
MAY BE CONSIDERED IN RULING ON A MOTION FOR SUMMARY JUDGMENT), SYNTHES V. GLO-
BUS MEDICAL INC., 2007 U.S. DIST. LEXIS 50812 (E.D. PA. JULY 12, 2007) (18)

(18) EXH: D AT 25, MEDICAL DEFENDANT, THE MOVANT, ARE OBLIGATED TO DO MORE THAN
DENY AND MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT.

(19) EXH: D, MEDICAL DEFENDANTS (EXH: D AT 26) CONSIST OF SELF-SERVING COMMENTS
AND ALLEGATIONS. AN ACCURATE ACCOUNT IS LOCATED AT DOC #27. MEDICAL DEFEN-
DANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT

(20) EXH: D AT 27, MEDICAL DEFENDANTS ALLEGATIONS ARE NOT FACTS. A FACTUAL AC-
COUNT IS LOCATED AT DOC #127. MEDICAL DEFENDANTS MUST ESTABLISH THE ABSEN-
CE OF GENUINE ISSUE OF MATERIAL FACT, ID. 477 U.S. AT 323

(21) EXH: D AT 28, MEDICAL DEFENDANT, MOVANTS SELF-SERVING VERIFICATIONS ARE NOT
FACTS, THE ACCURATE ACCOUNTS LOCATED AT DOC #127, MEDICAL DEFENDANTS MUST ESTAB-
LISH THE NON EXISTENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED

(22) EXH: D AT 29, THE GRIEVANCE COORDINATOR DONG INVESTIGATE THE GRIEV-
ANCES, SEE EXH: J AT GRN #801220: INITIAL REVIEW RESPONSE; GRN #80196 INITIAL REVIEW
DEMONSTRATE DEFENDANT, DELISMA INCORP WAS AWARE OF GRIEVANCES AGAINST DEFEND-
ANT, DELISMA, WHO CONTACTED, SYNTHES V. GLOBUS MED. INC., 2007 U.S. DIST. LEXIS 50812
(E.D. JULY 12, 2007) (WHERE A PARTY SIMPLY PRESENTS INADMISSIBLE HEARSAY DECLARATIONS
IN AN ATTEMPT TO ESTABLISH A DISPUTED MATERIAL ISSUE OF FACT, COURTS HAVE TYPICALLY RE-
BUFFED THESE EFFORTS AND HELD INSTEAD THAT SUMMARY JUDGMENT IS APPROPRIATE)

DEFENDANTS, THE MOVANTS MUST ESTABLISH THE ABSENCE OF A GENUINE ISS-
UE OF MATERIAL FACT, AND FAILED EXH: 56 AT I-IX; EXH: 55 AT 15, 16, 35, 33-41, 34

DOC #127 AT 42, 43, 48, 51, 56, 57, 62, 61, 86, 88, 110, 115, 60

OPP: SJ 3:17-cv-00196

(19)

PLAINTIFF, THE NON MOVANT ALL-SE AND INCORPORATE BY REFERENCE THE ENTIRE ANSWERED COMPLAINT, MOTION FOR RECONSIDERATION; MOTION-IN-BRIEF FOR SUMMARY JUDGMENT, UNDISPUTED STATEMENT OF FACT-IN-ALL EXHIBITS; PLAINTIFF REPLY TO DOC #154, 155; PLAINTIFF OPPOSITION TO BOTH MEDICAL-IN-DOE DEFENDANTS; ANSWER FOR SUMMARY JUDGMENT-UNCONTESTED STATEMENT OF FACTS-IN-BRIEFS IN SUPPORT OF SUMMARY JUDGMENT-APPENDIXES, AND ALL OTHER PLEADINGS MADE BY PLAINTIFF, THE NON MOVANT

(23) EXH D AT 30; MEDICAL DEFENDANTS MUST DO MORE THAN DENY, MAKE ALLEGATION, WHERE ARE THE STATED DOCUMENT PERTAINING TO COST? MEDICAL DEFENDANTS, THE MOVANTS MUST ESTABLISH THE ABSENCE OF A GENUINE ISSUE OF MATERIAL FACT, Doc #127 AT 4, 5; EXH 54 AT I-IX; EXH 5; 14

(24) EXH D AT 31; MEDICAL DEFENDANTS MUST DO MORE THAN DENY, MEDICAL DEFENDANTS ARE OBLIGATED TO ESTABLISH THE ABSENCE OF A GENUINE ISSUE OF MATERIAL FACT, AND FAILED, Doc #127 AT 3, 4, 5; EXH 54 AT I-IX; EXH 5; 14

(25) EXH D AT 32, MEDICAL DEFENDANTS MUST DO MORE THAN DENY. MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT.

PLAINTIFF FACTS; Doc #127 AT 20, 49, 59, 46, 63, 94, 88, 40 EXH 55 AT 6-8, 10, 11, 19
(26) N.B. EXH E, LIKEN TO EXH D, F-I ARE ESSENTIALLY CARBON COPIES, EXHS D, F, H, I, ARE ESSENTIALLY DUPLICATE OF THE DOCUMENTS MEDICAL DEFENDANTS, FILED AS THE MOVING PARTY IN WASHINGTON V. BARNHART 3:17-CV-0070.

NEW ADDRESS EXH E, AT 3, THESE CLAIMS CANNOT BE SUBSTANTIATED, NO CLAIMS ARE ALLEGED AGAINST DEFENDANT, TESTA DURING 2018, AND 2020; AND UNLESS STATED OTHERWISE, ONLY ONE MEDICAL DEFENDANT WAS IN THE OFFICE AT THE SAMESITE DURING PLAINTIFF SICK CALL VISIT; THEREFORE, THE ALLEGATIONS OF HAVING KNOWLEDGE AND INFORMATION WAS OBTAINED VIA HEARSAY, THE SAME APPLIES EXHS E-I, E.G. DEFENDANTS, KAUFMAN, ON ONE OCCASION DID PLAINTIFF ALLEGED AGAINST DEFENDANT, KAUFMAN IN 2019; AND TWICE IN 2020; SEE EXH F AT 6, DEFENDANT, FETTERMAN. NO CLAIMS ALLEGED AGAINST DEFENDANT, FETTERMAN IN 2019, 2020, SEE EXH G AT 6, ONLY ONE CLAIM IN 2018; NO CLAIMS ARE ALLEGED DEFENDANT, HUTCHINSON 2019, AND 2020; SEE EXH H; TWO CLAIMS 2018, ONE IN 2019 AND 2020, ARE ALLEGED AGAINST DEFENDANT, PLAYS, SEE EXH I AT THREE; IN EACH INSTANCE EXH D-I AT 3 CANNOT BE, THEREFORE, MEDICAL DEFENDANTS MISREPRESENTATIONS CONSIST OF HEARSAY, INADMISSIBLE EVIDENCE. SYNTHES V. ALDBUS MEDICAL, INC. 2007 U.S. DIST. LEXIS 50812 (E.D. PA. JULY 12, 2007) (INADMISSIBLE HEARSAY IN ATTEMPT TO ESTABLISH A DISPUTED MATERIAL ISSUE OF FACT, SUMMARY JUDGMENT IS APPROPRIATE).

DEFENDANTS, THE MOVANTS MUST ESTABLISH THE ABSENCE OF GENUINE MATERIAL FACT, AND FAILED

(27) EXHS E-I AT 4, MEDICAL DEFENDANTS, THE MOVANT MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, CELOTEX CORP. 477 U.S. 317, 323

(28) EXHS E-I AT 5, MEDICAL DEFENDANTS ASSERTIONS ARE NOT FACTS, THIS IS INADMISSIBLE EVIDENCE, CELOTEX 477 U.S. AT 324 EXH 55 AT 39

PLAINTIFF FACTS: Doc #127 AT 20, 28, 34, 41, 45, 49, 88, 59, 97, 98 EXH 55 AT 5-8, 10, 11, 23, 35
OFF: SJ 3:19-CV-0076

MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED TO DO

(29) EXH E-ATG; EXH: F-I; MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACTS, AND FAILED. (EXHS F-I ATG) EXH: 55 AT 13, 26, 35, 38-41, 34 EXH: 56 AT I-IX
PLAINTIFF FACTS, Doc #127 AT 6, 15, 20, 39, 41-45, 49, 59, 62, 56, 57, 81, 86, 88, 110, 111, 60

(30) EXHS: E AT 6. DENIAL IS INSUFFICIENT EVIDENCE TO SUPPORT A MOTION FOR SUMMARY JUDGMENT. MEDICAL DEFENDANTS MUST DEMONSTRATE THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT. Doc #127 AT 6, 9-20, 38-39, 41-44, 48-63, 66, 84, 86-88, 91-98, 100-102, 110-111, 116; EXHS: 56 AT I-IX, EXH: 55 AT 3-10, 12, 14-19, 23, 25, 26, 35-39, 41; BIG APPLE BMW INC. V. BMW OF NORTH AMERICA INC., 974 F.2d 1358, 1363 (3rd CIR 1992) (WHERE THE NONMOVANT'S EVIDENCE CONTRADICTS THE MOVANT'S, THEN THE NONMOVANT'S MUST BE TAKEN AS TRUE); MEDICAL DEFENDANTS, FAILED THEIR MANDATE

(31) EXH E-H AT 7; DENIAL IS INSUFFICIENT FOR ADMISSIBLE EVIDENCE TO SUPPORT THE MOTION FOR SUMMARY JUDGMENT. MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUES OF MATERIAL FACT, AND FAILED

(32) EXH: I AT 7: MEDICAL DEFENDANT, PLAYSO; THE MOVANT, MUST DO MORE THAN RELY ON HEARSAY. WHERE ARE THE SIGNED DOCUMENTS VERIFYING THAT PLAINTIFF WAS TESTED FOR WHIPPLE'S DISEASE? WHAT-N-WHEN WAS A PRESENTATION PRESENTED, WHO DRAFTED SUCH PRESENTATION? FOR A FACTUAL ACCOUNT SEE PLAINTIFF UNDISPUTED STATEMENT OF FACT, Doc #127. TO DATE, PLAINTIFF HAS NOT BEEN TESTED FOR WHIPPLE'S DISEASE

N.B. NO CLAIM IS ALLEGED AGAINST MEDICAL DEFENDANTS FOR NOT PROVIDING PLAINTIFF TREATMENT FOR WHIPPLE'S DISEASE. . . HOWEVER, ALL LABORATORY TEST, FAMILY HISTORY, ON GOING SYMPTOMS, THE OPINION OF THREE DOC DOCTORS, AND A GASTROENTEROLOGIST IDENTIFY WITH WHIPPLE'S DISEASE.

PLAINTIFF FACTS: Doc #127 AT 6, 52, 61, 102 EXHS: 55 AT 15, 16, 37-41; EXH: 56 AT I-IX
CELOTEX, 477 U.S. 374 (ANY EVIDENCE USED TO SUPPORT A MOTION FOR SUMMARY JUDGMENT MUST BE ADMISSIBLE); PETERSON V. LEHIGH VALLEY DIST. COUNCIL, 676 F.2d 81, 84 (3d CIR 1992) (SUMMARY JUDGMENT SHALL NOT BE GRANTED WHEN THERE IS A DISAGREEMENT ABOUT THE FACTS OR PROPER INFERENCES THAT A FACT FINDER COULD DRAW FROM THEM)
MEDICAL DEFENDANT, PLAYSO, THE MOVANT, MUST ESTABLISH THE ABSENCE OF GENUINE MATERIAL FACT, AND FAILED

(23) EXHS: E-H: MEDICAL DEFENDANTS, MOVANTS MUST ESTABLISH THE ABSENCE OF GENUINE MATERIAL FACTS, AND FAILED; EXHS E-H AT 8

(34) EXH: I AT 8; SEE EXH J AT 8 (1) 638207, INITIAL REVIEW, 8.17.16; (2) 652393; 11.14.16; (3) 653812; DATED 11.21.16; (4) 681330, DATE 6.9.17. THAT DEMONSTRATES DEFENDANT, PLAYSO WAS INDEED AWARE OF GRIEVANCES AGAINST DEFENDANT, PLAYSO

FIRST-N-FOREMOST EACH DEFENDANT MUST HAVE RECEIVED A U.S. MARSHALL FORM TO BE CONSIDERED A DEFENDANT, AND TO HAVE FILED A VERIFICATION, DEFENDANT, PLAYSO; VERIFICATION IS DATED-N-SIGNED 8.25.20 PERTAINING TO WASHINGTON V. BARNHART, 3:17-CV-0070; FILED 5.18.17; MORE THAN TWO YEARS PRIOR TO WASHINGTON V. DELISMA, 3:19-CV-00196; WHERE DEFENDANT, PLAYS SUBMITTED THE SAME VERIFICATION, AT OPP: SJ 3:19-CV-00196 (20)

7, WHICH DEFENDANT, PLAYSO SUBMITTED IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT IN WASHINGTON V. BRADHART, 3:17-cv-0070 AT 11, ADDITIONALLY, DEFENDANT, PLAYSO NAME IS CITED AMONG THE LIST OF DEFENDANTS; THEREFORE, DEFENDANT, PLAYSO WAS INDEED WAS AWARE OF GRIEVANCE AND LAWSUIT

PLAINTIFF FACTS: Doc #127 AT 38; 39; 41-43; 48; 49; 51; 56-63; 66; 81; 82; 83-88; 91-98; 100-102; 110; 116; 119-120; EXH 56 AT I-IX; EXH 55 AT 3-10; 12-14; 23; 25; 26; 34-41
MEDICAL DEFENDANTS MOVANTS ARE REQUIRED TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED.

BECAUSE OF THE OBVIOUS LACK OF PROOF IN MEDICAL DEFENDANTS ESSENTIAL ELEMENT OF MEDICAL DEFENDANT CLAIM OF HAVING NO KNOWLEDGE OF GRIEVANCES AND LAWSUITS AGAINST DEFENDANT, PLAYSO. ANDERSON V. LIBERTY LOBBY INC. 477 U.S. 248, 249, 106 S. CT. 2505 (1986); GRAY V. YORK NEWSPAPERS, INC. 957 F.2d 1070, 1078 (3d Cir 1992) (A DISPUTED FACT IS MATERIAL IF PROOF OF ITS NON EXISTENCE WOULD AFFECT THE OUTCOME OF THE CASE UNDER APPLICABLE SUBSTANTIVE LAW)

(35) EXH E AT 9. NO CLAIM ALLEGED AGAINST DEFENDANT, D. TESTA CONCERN PLAINTIFF EYE ON OR NEAR 3.22.19. MEDICAL DEFENDANT, TESTA REFERENCE MEDICAL RECORD, WHICH WAS DRAFTED BY DEFENDANT, TESTA CONTAIN SELF SERVING COMMENT, AND ASSERT THINGS THAT NEVER TOOK PLACE. Doc #127 IS PASSIM WITH MEDICAL DEFENDANT ACTS. AGAIN, NO CLAIM IS ALLEGED AGAINST DEFENDANT TESTA CONCERNING WHIPPLES. DEFENDANT, TESTA, IS NOT A GASTROENTEROLOGIST THEREFORE LACK THE SKILL TO MAKE SUCH CLAIM. DEFENDANT, TESTA OWN STATEMENT IMPLIES DELIBERATE INDIFFERENCE, i.e. "HE COMPLAINED OF BLOATING AND INTERMITTENT DIARRHEA AND CONSTIPATION", "HE DID NOT REQUIRE ANY TREATMENT WHEN I SAW HIM", DENIAL, AND HEARSAY IS INSUFFICIENT TO SUPPORT A MOTION FOR SUMMARY JUDGMENT, MEDICAL DEFENDANT, TESTA; MOVANT MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF FACT, AND FAILED

(36) EXH F AT 9, VERIFICATION OF DEFENDANT, E. KAUFFMAN, AS MENTIONED ABOVE NO TWO MEDICAL PROFESSIONAL WERE ALLEGED TO BE IN THE OFFICE AT THE SAME TIME DURING PLAINTIFF SICK CALL VISIT, ALL MEDICAL DEFENDANTS ARE NOT SPECIALIST, THEREFORE ALL MEDICAL DEFENDANTS LACK THE KNOWLEDGE TO TESTIFY ON THIS MATTER. FRCP 51(c)(4) DEFENDANT KAUFFMAN CLAIM OF A NEGATIVE BIOPSY IS HEARSAY. REFERENCE TO THE MEDICAL RECORD, WHICH IS SELF-SERVING, CONTAINS ALLEGATIONS-N-HEARSAY, DEFENDANT NEVER TOUCHED PLAINTIFF PHYSICALLY. DEFENDANT, KAUFFMAN, "CANNOT PRESENT IN A FORM THAT WOULD BE ADMISSIBLE IN EVIDENCE" FRCP 56.
NO CLAIMS ALLEGED FOR A DENIAL OF CARE FOR WHIPPLES.

Doc #127 AT 86; 93; 102

EXH 55 AT 15; 16

DEFENDANT, KAUFFMAN, MOVANT IS REQUIRED TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF FACT, AND FAILED. CELOTEX, 477 U.S. 317, 323, 106 S. CT. 2548 (1986); RTA APPL. BMW INC. 974 F.2d 1358, 1363 (3d Cir 1992) (WHERE THE NON MOVING PARTY'S EVIDENCE CONTRADICTS THE MOVANT, THEN THE NON MOVANTS MUST BE TAKEN AS TRUE)

(37) N.B. THE NON MOVANT, PLAINTIFF ① HAS NOT TAKEN TEST FOR WHIPPLES DISEASE, ② WHIPPLES DISEASE AND CELIAC DISEASE ARE TWO DISTINGUISHABLY DIFF.

ERENT DISEASE, AND TESTING FOR CELIAC IS NOT AT THE SAME TIME A TEST FOR WHIPPLES FOR A PERSON TO SAY THE TWO ARE ONE - IN THE SAME ARE CATEGORICALLY INCORRECT, (3) ONLY ONE MEDICAL PROFESSIONAL WAS INSIDE OF THE OFFICE DURING PLAINTIFF SICK CALL VIST, SO FOR ONE DEFENDANT TO REFERENCE CARE ALLEGED TO HAVE BEEN PROVIDED BY A SPECIALIST, AND/OR BY OTHER MEDICAL DEFENDANTS ARE RELYING ON HEARSAY, (4) ALL MEDICAL DEFENDANTS ARE NOT SPECIALIST, I.E. GASTROENTEROLOGIST, PATHOLOGIST, CARDIOLOGIST, ENT/OTO-LARYNGOLOGIST, OPHTHALMOLOGIST, UROLOGIST, DERMATOLOGIST, PODIATRIST, AND NOT COMPETENT TO TESTIFY ON THE MATTER (5) NO CLAIM FOR A MEDICAL DEFENDANTS DENYING PLAINTIFF CARE FOR WHIPPLES DISEASE, (6) REFERENCES TO WHAT LABORATORY TEST IMPLY WHIPPLES DISEASE, AND/OR SYMPTOMS, FAMILY HISTORY-DECISIONS OF OTHER MEDICAL PROFESSIONALS, OR SPECIALIST, ARE NOT CLAIMS ALLEGED AGAINST MEDICAL DEFENDANTS FOR A DENIAL OF CARE FOR WHIPPLES.

SEE FRCP 56 PROVIDES INTER ALIA "A PARTY MAY OBJECT TO THAT THE MATERIAL CITED TO SUPPORT OR DISPUTE A FACT CANNOT BE PRESENTED IN A FORM THAT WOULD BE ADMISSIBLE IN EVIDENCE", FRCP 56 (c)(4) AN "AFFIDAVIT OR DECLARATION USED TO SUPPORT OR TO OPPOSE A MOTION MUST BE MADE ON PERSONAL KNOWLEDGE, SET OUT FACTS THAT WOULD BE ADMISSIBLE IN EVIDENCE, AND SHOW THAT THE AFFIDAVANT OR DECLARANT IS COMPETENT TO TESTIFY ON THE MATTER STATED" FRCP 56 (c)(4); CELOTEX CORP., 477 U.S. 317, 323, 106 S. CT. 2348 (1986) (DEMONSTRATE THE ABSENCE OF A GENUINE ISSUE OF MATERIAL FACT), BLE APPLIE BMW INC. V. BMW OF NORTH AMERICA INC., 914 F.2d 1358, 1363 (3rd CR. 1992) (WHERE THE NONMOVING PARTY'S EVIDENCE CONTRADICTS THE MOVANT THEN THE NONMOVANT'S MUST BE TAKEN AS TRUE); PETERSON V. LEHIGH VALLEY DIST. COUNCIL, 676 F.2d 81, 84 (3d CR. 1992) (SUMMARY JUDGMENT SHALL NOT BE GRANTED WHEN THERE IS A DISAGREEMENT ABOUT THE FACTS OR PROPER INFERENCE THAT A FACT FINDER COULD DRAW FROM THEM); SMITH ES. V. GLOBUS MEDICAL, INC., 2007 U.S. DIST. LEXIS 50812 (E. D. PA. JULY 12, 2007) (INADMISSIBLE HEARSAY IN ATTEMPT TO ESTABLISH A DISPUTED MATERIAL ISSUE OF FACT SUMMARY JUDGMENT IS APPROPRIATE); CELOTEX, 477 U.S. AT 324 (ANY EVIDENCE USED TO SUPPORT A MOTION FOR SUMMARY JUDGMENT MUST BE ADMISSIBLE) EXH. 55 AT 15-19, 34, 35, 41

PLAINTIFF FACTS Doc# 127 AT 13-20, 51, 52, 59, 84, 86, 91-93, 102, 110

(38) EXH. G AT 9, DEFENDANT, FETTERMAN REFERENCE THE MEDICAL RECORD, WHICH IS A SELF SERVING DOCUMENT. A FACTUAL ACCOUNT OF MEDICAL DEFENDANT'S ACTION IS DETAILED IN Doc# 127, MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED. CELOTEX 477 U.S. AT 323.

(39) EXH. H AT 9, NO CLAIMS ARE ALLEGED CONCERNING THE CARE DEFENDANT, HUTCHINSON PROVIDE. PLAINTIFF ALLEGED CLAIM CONCERN THE CARE DEFENDANT, HUTCHINSON DENIED Doc# 127 AT 45, 60 EXH. 55 AT 3-12, 12-41, 17-19, 23, 34-41

MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED. CELOTEX, 477 U.S. AT 323.

(40) EXH. I AT 9, NO CLAIMS ARE ALLEGED AGAINST DEFENDANT, PLAYS FOR "PREVENTING" FROM FILING ANY DOCUMENT OR CLAIM. MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE MATERIAL FACT, AND FAILED. CELOTEX, 477 U.S. AT 323.

(41) EXH. E AT 10: DENIAL IS INSUFFICIENT TO SUPPORT A MOTION FOR SUMMARY JUDGMENT, DEFENDANT, TESTA, MOVANT MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT AND FAILED. PLAINTIFF FACTS, DOC #127 AT 41, 43, 51, 56, 66, 83, 63
EXH 56 AT 9, 10, 14, 23, 24, 34-41 CELOTEX 477 U.S. AT 323

(42) EXH. F AT 10: DEFENDANT, KAUFFMAN REFERENCES MEDICAL RECORD, A SELF-SERVING DOCUMENT, DRAFTED BY DEFENDANT, KAUFFMAN, WHICH CONTAINED ASSERTION THAT NEVER TOOK PLACE. DENIAL IS INSUFFICIENT TO SUPPORT A MOTION FOR SUMMARY JUDGMENT. A ACCURATE DETAIL OF ALL MEDICAL DEFENDANTS IS LOCATED AT DOC #127 AT 6, 9-20, 38-45, 47-63, 66, 83-88, 91-98, 100-102, 110, 111
EXH: 56 AT I-IX, EXH 55 AT 3-10, 12-19, 23, 25, 26, 34-41
BIO APPLE BMW INC., 974 F.2d 1358, 1363 (3rd Cir. 1992) (WHERE THE NON MOVING PARTY EVIDENCE CONTRADICTS THE MOVANT, THEN THE NON MOVANT MUST BE TAKEN AS TRUE)
PETERSON, 676 F.2d 81, 84 (3d Cir. 1982) (SUMMARY JUDGMENT SHALL NOT BE GRANTED WHEN THERE IS A DISAGREEMENT ABOUT THE FACTS OR PROPER INFERENCES THAT A FACT FINDER COULD DRAW FROM THEM), SYNTHES, 2007 U.S. DIST. LEXIS 50812 (E.D. PA, JULY 12, 2007) (INADMISSIBLE HEARSAY IN ATTEMPT TO ESTABLISH A DISPUTED MATERIAL FACT, SUMMARY JUDGMENT IS APPROPRIATE) CELOTEX 477 U.S. AT 324 (ANY EVIDENCE USED TO SUPPORT A MOTION FOR SUMMARY JUDGMENT MUST BE ADMISSIBLE)
MEDICAL DEFENDANTS, MOVANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED. ID. 477 U.S. AT 323

(43) EXH. G AT 10: DEFENDANT, FETTERMAN REFERENCES THE MEDICAL RECORD, A DOCUMENT, DEFENDANT'S PERSONALLY DRAFTED, CONTAIN SELF-SERVING NOTATION, MANY THAT NEVER TOOK PLACE, N.B. WHERE IS PLAINTIFF SIGNATURE? . . . MY CLAIM IS ALLEGED FOR THE CARE DEFENDANT, FETTERMAN CONCERNING THE CARE PROVIDED. PLAINTIFF CASE CONCERN THE CLAIMS ALLEGED AGAINST, DEFENDANT FETTERMAN FOR THE CARE DEFENDANT, FETTERMAN DENIED, ESTELLE V. GAMBLE, 429 U.S. 97, 104-105, 97 S. CT 285 (1976). MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED. CELOTEX 477 U.S. AT 323

(44) EXH. H^{AT 10} DEFENDANT, HUTCHINSON REFERENCES THE MEDICAL RECORD, A DOCUMENT DRAFTED BY DEFENDANT, HUTCHINSON, CONTAINS NOTATIONS THAT ARE SELF-SERVING AND/OR NEVER OCCURRED. CELOTEX 477 U.S. AT 323 (ANY EVIDENCE USED TO SUPPORT A MOTION FOR SUMMARY JUDGMENT MUST BE ADMISSIBLE) THE MEDICAL DEFENDANTS BEHAVIOR IS ACCURATELY DETAILED IN DOC #127. MEDICAL DEFENDANT, HUTCHINSON IS NOT BEING SUED FOR THE CARE DEFENDANT, HUTCHINSON PROVIDED. THE CLAIM ALLEGED AGAINST, DEFENDANT, HUTCHINSON FOR THE CARE DENIED. ESTELLE V. GAMBLE, 429 U.S. 97, 104-105, 97 S. CT 285 (1976) DOC #127 AT 6, 15, 16, 48-63, 83, 110, 111
EXH 56 AT I-IX, EXH 55 AT 6, 18, MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE MATERIAL FACT, ISSUE, AND FAILED. CELOTEX 477 U.S. AT 323

(45) EXH. I^{AT 10} DENYING IS INADMISSIBLE - INSUFFICIENT TO SUPPORT A MOTION FOR SUMMARY JUDGMENT. CELOTEX 477 U.S. AT 324. PLAINTIFF FACTS, DOC #127 AT 6, 9-20, 38-45, 47-63, 66, 83-88, 91-98, 100-102, 110, 111
EXH 56 AT I-IX, EXH 55 AT 3-10, 12-19, 23, 25, 26, 34-41
OFF. 35 3:19-CV-00196 (23)

ESTELLE, 429 U.S. 97, 104-105, 97 S. CT 225 (9174) MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACTS, AND FAILED, ID. 477 U.S. AT 323
 (46) EXH I, E, HEARSAY, BALL ASSAULTION AND ALLEGATIONS ARE INADMISSIBLE EVIDENCE TO SUPPORT A MOTION FOR SUMMARY JUDGMENT, ID. 477 U.S. AT 324. DEFENDANT, TESTA, NO ALLEGATIONS MADE FOR THE CARE DEFENDANT, TESTA PROVIDED. THE CLAIMS ALLEGED AGAINST DEFENDANT, TESTA CONCERN THE CARE DENIED, REFERENCES TO MEDICAL RECORDS, WHICH CONTAIN NOTATIONS DRAFTED BY DEFENDANT, TESTA, AND/OR ACT THAT NEVER OCCURRED, ESTELLE, 429 U.S. 97, 104-105, 97 S. CT. 225, MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, ID. 477 U.S. AT 323 (EXH E AT 11)

(47) EXH F AT 11: FIRST-N-FORMOST, AT NO TIME DID PLAINTIFF RECEIVE MEDICINE FOR RHEUMATOID CHRONIC ARTHRITIS, NOR WAS PLAINTIFF TOLD ABOUT THIS MEDICINE, REFERENCE TO MEDICAL RECORD, A SELF SERVING DOCUMENT CONTAINING NOTATIONS DRAFTED BY DEFENDANT, KAUFFMAN, HEARSAY-N-ACT THAT DID NOT OCCUR, SEE ABOVE AT 37, ID. 477 U.S. AT 324, MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(48) EXH G AT 11: N.B. NO CLAIMS ARE ALLEGED AGAINST DEFENDANT, FETTERMAN CONCERNING THE CARE PROVIDED, PLAINTIFF ALLEGED CLAIMS AGAINST DEFENDANT, FETTERMAN FOR THE CARE DENIED, ESTELLE, 429 U.S. AT 104-105, SEE DOC #127 AT 6, 9, 12, 13, 17, 20, 38, 39, 41-45, 48-63, 81-84, 86, 88, 93, 94, 97, 101, 102, 110, 111, 116 EXH: 56 AT I-IX, EXH: 55 AT 3-10, 12, 23, 26, 34-41

N.B. DEFENDANT, FETTERMAN DID NOT TOUCH PLAINTIFF PHYSICALLY TO CONDUCT A CURSORY EXAM. MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, ID. 477 U.S. AT 323

(49) EXH H AT 11: DENIAL IS INADMISSIBLE FOR THE SUPPORT OF MOTION FOR SUMMARY JUDGMENT, ID. 477 U.S. AT 324. SEE DOC #127 AT 38, 39, 41-44, 48, 51, 53, 54, 58-63, 81-84, 86, 88, 93-98, 100-102, 110, 111, 116 EXH 56 AT I-IX, EXH 55 AT 3-10, 12, 23, 26, 34-41 ID. 429 U.S. AT 104-125; WATSON V. FUQUAY, 2020 WL 3545270 (W.D. PA. SEPTEMBER 16, 2020); WATSON V. ROZUM, 834 F.3d 417, 422 (E.D. PA. 2016); RAUSER V. HERN, 241 F.3d 334, 333, 334 (3d Cir. 2001) (AN ADVERSE ACTION IS ONE THAT WOULD DIET A PERSON OF ORDINARY FIRMNESS FROM EXERCISING HIS AMENDMENT RIGHTS, CORTLESSA V. COUNTY OF CHESTER, 2005 U.S. DIST. LEXIS 20513*22 (E.D. PA. OCTOBER 26, 2005) (DENYING MOTION TO DISMISS RETALIATION CLAIM WHERE PLAINTIFF ALLEGED THAT HE WAS DENIED MEDICAL ASSISTANCE BY PRISON OFFICIALS IN RETALIATION FOR ATTEMPTING TO FILE GRIEVANCES), HUBBES V. SMITH, 2005 U.S. DIST. LEXIS 2783*14 (E.D. PA. FEBRUARY 24, 2015); DIAS-CRUZ V. SYMONS, 2016 U.S. DIST. LEXIS 147918*42, 43 (M.D. PA. OCTOBER 26, 2016) (DENIAL OF MEDICAL CARE CAN CONSTITUTE AN ADVERSE ACTION FOR THE PURPOSE OF A RETALIATION CLAIM), MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, ID. 477 U.S. AT 323
 (50) EXH I AT 11: DENYING PLAINTIFF ALLEGATIONS IS INADMISSIBLE TO SUPPORT MOTION FOR SUMMARY JUDGMENT, ID. 477 U.S. AT 324. DEFENDANT, PLAYSO REFERENCES THE MEDICAL RECORD, A SELF SERVING DOCUMENT CONTAINING NOTATIONS DRAFTED BY DEFENDANT, PLAYSO, AND ACTS THAT NEVER TOOK PLACE, MEDICAL DEFENDANTS MUST

ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT; ID. 477 U.S. AT 323

(51) EXH D AT 12: DEFENDANT, TESTA REFERENCES THE MEDICAL RECORD A SELF SERVING DOCUMENT CONTAINING NOTATION DRAFTED BY DEFENDANT, TESTA ALLEGING THAT NEVER OCCURRED, PLAINTIFF FACTS, DOC #127 PROVIDES THE ACCURATE ACCOUNT OF ALL MEDICAL DEFENDANTS' CONDUCT, BIG APPLE BMW INC., 974 F.2d 1358, 1363 (3d Cir. 1992) (WHERE THE NONMOVING PARTY'S EVIDENCE CONTRADICTS THE MOVANT THEN THE NON MOVANTS MUST BE TAKEN AS TRUE), SEE DOC #127 AT 6; 9-12; 20; 38; 39; 41-45; 48-63; 81-84; 88; 91-96; 98; 100-102; 110; 111; 116 EXH 56 AT I-IX; EXH 55 AT 5; 9; 10; 12; 13; 14; 23; 25; 26; 36-41 ESTELLE 429 U.S. 97, 104-105; SYNTHES, 2007 U.S. DIST. LEXIS 50812 (E. D. PA JULY 12, 2007) (INADMISSIBLE HEARSAY IN AN ATTEMPT TO ESTABLISH A DISPUTED MATERIAL ISSUE OF FACT, SUMMARY JUDGMENT IS APPROPRIATE). MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED. ID. CELOTEX 477 U.S. AT 323

(52) EXH F AT 12: DEFENDANT, KAUFFMAN REFERENCES THE MEDICAL RECORD, A DOCUMENT DRAFTED BY DEFENDANT, KAUFFMAN; SELF SERVING NOTATION THAT NEVER OCCURRED, DENIAL IS NOT ADMISSIBLE EVIDENT TO SUPPORT MOTION FOR SUMMARY JUDGMENT. CELOTEX 477 U.S. AT 324. THE ACCURATE DETAILS ARE CITED IN PLAINTIFF FACTS, AT DOC #127, AT 6; 9-12; 15; 20; 38; 39 EXH 56 AT I-IX; EXH 55 AT 6; 18 ID. 429 U.S. AT 104-105 MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED. ID. 477 U.S. AT 323.

(53) EXH G AT 12: NO CLAIM IS ALLEGED AGAINST DEFENDANT, FETTERMAN FOR THE CARE PROVIDED. PLAINTIFF ALLEGED CLAIMS CONCERN CARE DENIED, SEE DOC #127 AT 6; 13; 14; 20; 38; 39; 41-45; 47-63; 81-84; 86; 88; 94-97; 100-102; 110; 111; 116 EXH 55 AT 3-10; 14-19; 23; 25; 26; 37-41 EXH 56 AT I-IX ID. 429 U.S. AT 104-105 MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED. ID. 477 U.S. AT 323

(54) EXH H AT 12: DENIAL IS INADMISSIBLE EVIDENCE TO SUPPORT A MOTION FOR SUMMARY JUDGMENT. ID. 477 U.S. AT 324. . . . MEDICAL DEFENDANTS, MOVANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED ID. 477 U.S. AT 323

(55) EXH I AT 12: DENIAL IS NOT ADMISSIBLE TO SUPPORT THE MOTION FOR SUMMARY JUDGMENT, CELOTEX 477 U.S. AT 323. . . . MEDICAL DEFENDANT, PLAYSO ALLEGED CONDUCT IS DETAILED IN DOC #127 AT 38; 39; 41-44; 48-63; 81-83; 97; 110; 111; 116; 86 EXH 56 AT I-IX; EXH 55 AT 9; 10; 14; 23; 26; 25; 36-41 ID. 429 U.S. AT 104-105 MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED. ID. 477 U.S. AT 323

(56) EXH E AT 13: DENIAL IS NOT ADMISSIBLE EVIDENT TO SUPPORT A MOTION FOR SUMMARY JUDGMENT. ID. 477 U.S. AT 324. . . . SEE DOC #127 AT 6; 9-12; 20; 38; 39; 41-44; 48-63; 83-84; 86; 88; 110; 111; 116 EXH 55 AT 6; 9-14 EXH 56 AT I-IX ID. 429 U.S. AT 104-105

MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED. ID. 477 U.S. 323.

(57) EXH F AT 13: A MOTION FOR SUMMARY JUDGMENT IS NOT SUPPORTED WITH DENIALS. ID. 477 U.S. AT 324. . . . DOC #127 AT 6; 9-12; 20; 38; 39; 41-44; 48-63; 83; 84; 86; 88; 110; 111; OPP: SJ 3:19-CV-00196 (25)

116; . . . EXH 55 AT 3-6, 8-14, 19, 23, 25, 26, 36-41 EXH 56 AT I-IX ~~ESTELLE~~ ID. 429 U.S. AT 104 MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(58) EXH G AT 13: DENIAL IS NOT SUPPORTIVE EVIDENCE OF MOTION FOR SUMMARY JUDGMENT, ID. 477 U.S. AT 324. THE ACCOUNT OF ALL MEDICAL DEFENDANTS IS PROVIDED IN PLAINTIFF FACTS, Doc #127, PRISMS AT 4, 6, 9-20, 25, 38-39, 41-44, 47-63, 66, 81-88, 97-98, 100-102, 110, 111, 116; EXH 55 AT 3-10, 12-19, 23, 25, 26, 34-41; EXH 56 AT I-IX ID. 429 U.S. AT 104-105; MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(59) EXH H AT 13: BY DENYING IS NOT SUPPORT FOR MOTION OF SUMMARY JUDGMENT, ID. 477 U.S. AT 324. DEFENDANT, HUTCHINSON ALLEGED CONDUCT IS DESCRIBED AT Doc #127 AT 39, 41-44, 99, 100, 101, 88, 97; EXH 55 AT 10, 14, 23, 37-41, ~~ESTELLE~~ ID. 429 U.S. AT 104-105; MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(60) EXH I AT 13: PLEASE SEE ABOVE AT 37, NO CLAIM IS ALLEGED CONCERNING PLAINTIFF EYE ON 3.22.19. FIRST-AND-FORMOST, THE OPHTHALMOLOGIST, REFUSED TO TOUCH PLAINTIFF RIGHT EYE BECAUSE THE OPHTHALMOLOGIST DIDN'T WANT TO BE BLAMED FOR ANOTHER OPHTHALMOLOGIST, MAYBE'S MISTAKE. PLAINTIFF VISIT FROM SCI-SOMERSET ON 3.22.19 WAS PROBABLY CONCERNING PLAINTIFF LEFT EYE. PLAINTIFF WAS SCHEDULED FOR SICK CALL ON 3.22.19, EVERY INMATE IMMEDIATELY AFTER RETURNING TO THE PRISON IS REQUIRED TO UNDER QUESTIONING BY MEDICAL PERSONNEL, ON THE RETURN OF 3.22.19, BECAUSE PLAINTIFF WAS EXPERIENCING SUCH PROBLEM WITH THE INTESTINAL TRACT THE STAFF ESCORT RUSHED PLAINTIFF IN TO BE SEEN BY DEFENDANT, TESTA, WHILE IN DEFENDANT, TESTA PRESENCE DEFENDANT, ABANDON PLAINTIFF, AGAIN, NO CLAIM IS ALLEGED FOR A DENIAL OF CARE ON 3.22.19, DEFENDANT, PLAYO REFERENCES THE MEDICAL RECORD, A SELF SERVING DOCUMENT DRAFTED BY MEDICAL DEFENDANTS CITING THING THAT NEVER OCCURRED, DENIAL IS NOT ADMISSIBLE EVIDENCE TO SUPPORT A MOTION FOR SUMMARY JUDGMENT, ID. 477 U.S. AT 324. DEFENDANT, PLAYO ALLEGED CONDUCT IS A PART OF THE CLAIM ALLEGED ON 3.22.19, Doc #127 AT 38, 41-44, 48 EXH 55 AT 10, 14, 23, 37-41; EXH 56 AT I-IX; ESTELLE, 429 U.S. AT 104-105. MEDICAL DEFENDANTS HAS THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(61) EXH E AT 14: DENIAL IS NOT ADMISSIBLE SUPPORT FOR MOTION FOR SUMMARY JUDGMENT, CELOTEX, 477 U.S. AT 324. . . . SEE Doc #127 AT 38, 39, 41-45, 48; EXH 55 AT 10, 14, 23, 37-41; EXH 56 AT I-IX; ESTELLE, 429 U.S. AT 104-105, WOOD V. WILLIAMS, 368 F. APP'X 100, 107 (CA 2014), MINEBAL CO. V. FOX ROTHSCHILD LLP, 615 F.3d 151, 179 (3d Cir. 2010) (PLAINTIFF ALLEGED IN SPECIFIC TERMS THE APPROXIMATE TIME WHEN THE AGREEMENT WAS MADE, THE SPECIFIC PARTIES TO AGREEMENT, THE PERIOD OF THE CONSPIRACY, OR THE OBJECT OF THE CONSPIRACY) DEFENDANT, MEDICAL, MOVANTS HAVE THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE OFF: 55 3:19-CV-00196 (26)

ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(62) EXH F AT 14: DENIAL IS NOT ADMISSIBLE EVIDENCE TO SUPPORT MOTION FOR SUMMARY JUDGMENT, ID. 477 U.S. AT 324. DEFENDANT, KAUFFMAN REFERENCE TO THE MEDICAL RECORD, A SELF SERVING DOCUMENT DRAFTED BY DEFENDANT, KAUFFMAN, PLAINTIFF SIGNATURE OF CONSENT IS NOT FOUND, CONTAINS NOTATION CONCERNING THINGS THAT DID NOT OCCUR. Doc[#] 127 PROVIDES A DIFFERENT ACCOUNT OF DEFENDANT, KAUFFMAN'S CONDUCT, AT 6, 9-12, 15, 20, 23; EXH 55 AT 6, 12, 13, 18; EXH 56 AT I-IX; ESTELLE, 429 U.S. AT 104-105

EXH 55 AT 9, 23;

Doc[#] 127 AT 41, 48, 51, 53, 54, 62, 68, 81, 83, 88, 107, 116, 110,

III; MEDICAL DEFENDANTS MUST ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(63) EXH G AT 14: HEARSAY-ALLEGATIONS-AND DENIALS ARE INADMISSIBLE EVIDENCE TO SUPPORT MOTION FOR SUMMARY JUDGMENT, ID. 477 U.S. AT 324. ALL MEDICAL DEFENDANTS (AS OUT LINED IN Doc[#] 127) CONDUCT ALLEGED, e.g., PASSIM, 4, 6, 9-20, 25, 38, 39, 41-44, 47-63, 66, 81-88, 91-98, 100-102, 110, 111, 116; EXH 55 AT 3-10, 12-19, 23, 25, 26, 34-41; EXH 56 AT I-IX; ID. 429 U.S. AT 104-105. MEDICAL DEFENDANTS THE MOVING HAVE THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, CELO-TEX, 477 U.S. 323

(64) EXH H AT 14: CONCLUSARY CLAIMS ARE INADMISSIBLE TO SUPPORT MOTION FOR SUMMARY JUDGMENT, ID. 477 U.S. AT 324. MEDICAL DEFENDANTS, HAVE THE DUTY AS MOVANTS TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(65) EXH I AT 14: DENIAL IS INADMISSIBLE TO USE AS EVIDENCE TO SUPPORT MOTION FOR SUMMARY JUDGMENT, ID. 477 U.S. AT 324. MEDICAL DEFENDANTS, HAS THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323. SEE Doc[#] 127 AT 6, 33, 39, 41-44, 45, 94-97, 63, 110, 111

EXH 55 AT 6, 3-10, 14, 23, 35-41 EXH 56 AT I-IX, ESTELLE, 429 U.S. AT 104-105;

(66) WOOD V. WILLIAMS 568 F. APPX 100, 107 (3d CR 2014); GREAT W. MINING & MINERAL CO. V. FOX ROTHSCHILD LP 615 F.3d 159, 179 (3d CR. 2010) (CONSPIRACY)

(66) EXH E AT 15: EXH F, AT 19, I AT 17: DENYING AVERMENTS, BALL CONCLUSARY STATEMENT OR ALLEGATIONS, HEARSAY IS ADMISSIBLE EVIDENCE TO SUPPORT A MOTION FOR SUMMARY, ID. 477 U.S. 324. . . . Doc[#] 127 AT 6, 6, 9-20, 25, 38, 39, 41-44, 47-63, 66, 81-88, 91-98, 100-102, 110, 111, 116; EXH 55 AT 3-10, 12-19, 23, 25, 26, 34-41; EXH 56 AT I-IX; MEDICAL DEFENDANTS ARE MANDATED TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED. ID. 477 U.S. AT 323; ESTELLE 429 U.S. AT 104-105

(67) EXH F AT 15. DEFENDANT, KAUFFMAN REFERENCE THE MEDICAL RECORDS, THE SELF SERVING DOCUMENT CONTAINING NOTATIONS DRAFTED BY DEFENDANT, KAUFFMAN CONCERNING CONDUCT THAT DID NOT OCCUR. N.B. WHERE IS PLAINTIFF SIGNATURE?

MATSUSHITA ELEC. INDUS. CO. V. ZENITH RADIO, 475 U.S. AT 576 (MOTIVE), PLAINTIFF PROVIDES A FACTUAL ACCOUNT IN Doc[#] 127 AT 6, 13, 15, 22, 38, 39, 41-44, 48-63, 81-88, 93-98, 100-102, 110, 111, 116 EXH 55 AT 3-10, 12-19, 23, 26, 30-41. ESTELLE 429 U.S. AT 104-105; BLG APPLE BMW INC. 774 F.2d 1358, 1363 (3d CR 1992) (NON MOVANT MUST BE TAKEN AS TRUE) MEDICAL DE-

DEFENDANTS' USE OF DENIALS-ALLEGATIONS-HEARSAY IS INADMISSIBLE TO SUPPORT A MOTION FOR SUMMARY JUDGMENT, ID. 477 U.S. AT 324. . . MEDICAL DEFENDANTS HAVE A DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(68) EXH C AT 15; EXH 5 E AT 16; FAT 20; MOTIVE IS A MATERIAL ISSUE, ID. 475 U.S. AT 396. DENIAL IS NOT ADMISSIBLE TO SUPPORT MOTION FOR SUMMARY JUDGMENT, ID. 477 U.S. AT 324. . . DEFENDANTS, TESTA, KAUFFMAN, AND FETTERMAN, INDIVIDUALLY VIOLATED PLAINTIFF EQUAL PROTECTION RIGHTS, DOC 127 AT 25, 32, 41-44, 28, 97, 99-101; EXH 55 AT 10, 14, 15, 31-41; ESTELLE, 429 U.S. AT 104-105; CITY OF CLEBURNE, TEXAS V. CLEBURNE LIVING CENTER, 473 U.S. 432, 440, 105 S. CT. 3249 (1995); CARTER V. MORRISON, 2010 U.S. DIST. LEXIS 17884*93 (3d OR FEBRUARY 24, 2010) (INTENTIONAL MISCONDUCT BASED ON RACE; LEGITIMATE INTEREST). MEDICAL DEFENDANTS HAVE THE DUTY, AS MOVANTS, TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(69) EXH 5: G AT 10; E AT 18; F AT 22; H AT 15; I AT 20; DENYING AVERMENTS IS INADMISSIBLE FOR THE SUPPORT OF SUMMARY JUDGMENT, ID. 477 U.S. AT 324. DEFENDANT, TESTA, KAUFFMAN, FETTERMAN, HUTCHINSON, AND PLAYS; ACTED IN CONCERT, AND INDIVIDUALLY ARE ALLEGED TO HAVE VIOLATED PLAINTIFF RIGHTS, DOC 127 AT 6, 9-13, 15, 17-20, 28, 31, 41-45, 47-63, 66, 81-88, 91-98, 100-102, 110, 111, 116. EXH 55 AT 3-10, 12-17, 23, 34-41. ESTELLE, 429 U.S. AT 104-105; EXH 56 AT I-IX; ARMSTRONG, 2020 WL 5545270*3 (M.D. PA. SEPTEMBER 16, 2020); WATSON, 834 F.3d 417, 422 (2d OR 2016); RAUSER, 241 F.3d 330, 333, 334 (2d OR 2001) (AN ADVERSE ACTION); ORTLESSA, 2005 U.S. DIST. LEXIS 20513*20 (E.D. PA. OCTOBER 26, 2005) (DENYING MOTION TO DISMISS RETALIATION CLAIMS WHERE PLAINTIFF ALLEGED THAT HE WAS DENIED ADEQUATE MEDICAL ASSISTANCE BY PRISON OFFICIALS IN RETALIATION ~~FOR~~ FOR ATTEMPTING TO FILE GRIEVANCES); HUGHES, 2015 U.S. DIST. LEXIS 2793*14 (E.D. PA. OCTOBER 26, 2015); DIAZ-CRUZ, 2016 U.S. DIST. LEXIS 14798*42, 43 (M.D. PA. ~~SEPTEMBER 16, 2020~~, OCTOBER 26, 2016) (DENIAL OF MEDICAL CARE CAN CONSTITUTE AN ADVERSE ACTION FOR THE PURPOSE OF A RETALIATION CLAIMS); WOOD V. WILLIAMS, 568 F. APPX 100, 107 (3d OR 2014); BREAT W. MINING + MINERAL CO. V. FOX ROTHSCHILD LLP, 615 F.3d 157, 179 (3d OR 2010) (CONSPIRACY); MEDICAL DEFENDANTS, MOVANT HAVE THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(70) EXH I AT 15; WHAT IS THE MOTIVE OF DEFENDANT, PLAYS? ID. 475 U.S. AT 396. 56 INTER ALIA 56. "COMPETENT TO TESTIFY ON THE MATTER STATED", MEDICAL DEFENDANTS HAVE THE DUTY, AS MOVANTS TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323; HEARSAY IS INADMISSIBLE TO SUPPORT MOTION FOR SUMMARY JUDGMENT, ID. 477 U.S. AT 324.

(71) EXH 5: E AT 17; F AT 18; G AT 16; I AT 19; PLAINTIFF, THE NON MOVANT, OBJECTS TO WHAT IS CITED TO SUPPORT A FACT, CANNOT BE PERSONAL KNOWLEDGE, NOR IS THE DECLARANT COMPETENT TO TESTIFY ON THE MATTER STATED, FRAP 56 INTER ALIA, e.g. "RECTAL DISCHARGE", "RIGHT LEG SWELLING", "DIFFICULTY BREATHING", "HEART VALVE DISEASE", "DEFORMED FINGERS", "WEAKNESS", "FOOT FUNGUS", "LOSS OF HEARING" AND EXH ISSUES. LETCOURT FIRST CONSIDER ALL MEDICAL DEFENDANTS ARE NOT SPECIALIST (DOC 127 AT 93) THEREFORE IN THE ONE

HAVE THE SKILL TO TREAT THE HEALTH PROBLEM CITED, AND FOR THE SAKE OF CLARITY THE CLAIMS ALLEGED ARE, DEFENDANT TESTA CONCERN DIGESTIVE TRACT-N-RIGHT EYE; DEFENDANT, ~~KAUFFMAN~~ - FEET, DIGESTIVE TRACT, UNABLE TO SPEAK ALOUD, WALKING WITH PAIN, URETHRAL STRICTURE-N-COVID 19 SYMPTOMS; DEFENDANT, HUTCHINSON - DEFORMED ANKLES-N-FEET; DEFENDANT, ~~PLAYSO~~ - ONLY ONCE WAS PLAINTIFF ALLOWED IN DEFENDANT, PLAYSO OFFICE; CONCERNING COVID 19 SYMPTOMS, BOTH LEGS LIKEN TO RUBBER; OTHER ALLEGED VIOLATIONS AGAINST PLAYSO CONCERN CONSPIRACY. NO CLAIMS ALLEGED AGAINST DEFENDANTS, TESTA, KAUFFMAN, FETTERMAN, HUTCHINSON-N-PLAYSO CONCERN RECTAL DISCHARGE, DIFFICULTY BREATHING, NOSE BLEED, RIGHT LEG SWELLING; SITTING UP, HEART VALVE DISEASE, MEMORY LOSS, HEART ATTACK SYMPTOMS, CHEST PAIN, HEARING LOSS. THIS MAKES IT EVIDENT THAT DEFENDANT INDIVIDUALLY IN THEIR VERIFICATION PROVIDED TESTIMONY THAT DID NOT OCCUR OR EACH DEFENDANT DO NOT HAVE MEDICAL SKILLS TO TREAT OR GIVE EXPERT KNOW HOW ON THE MATTER STATE.

N.B. MORE THAN ONCE MEDICAL DEFENDANTS PROFESSED CERTAIN CLAIMS THAT CANNOT BE, AND IT APPEARS MEDICAL DEFENDANT MADE SUCH ASSERTION WAS TO SUPPORT OR DISPUTE A ISSUE OF MATERIAL FACT. SYNTHESIS, 2007 U.S. DIST LEXIS 50812 (E.D. PA. JULY 12, 2007) (INADMISSIBLE HEARSAY IN ATTEMPT TO ESTABLISH A DISPUTED MATERIAL ISSUE OF FACT, SUMMARY JUDGMENT IS APPROPRIATE). Doc #127 AT 6; 9-13; 15; 17-20; 38; 39; 41-45; 47-63; 66; 81-88; 91-98; 100-102; 110; 111; 116; EXH 55 AT 3-10; 12-19; 23; 34-41; EXH 56 AT I-IX; MEDICAL DEFENDANTS HAVE THE DUTY, AS MOVANT, TO ESTABLISH THE ABSENCE OF GENUINE MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(72) EXH F AT 16, A MOTION FOR SUMMARY JUDGMENT CANNOT BE SUPPORTED BY DENYING THE AVERMENT OF THE OPPOSING PARTY, ID. 477 U.S. AT 324. NO CLAIM IS ALLEGED AGAINST DEFENDANT, KAUFFMAN DUE TO WHAT DEFENDANT, KAUFFMAN SAID. PLAINTIFF ALLEGED CLAIMS AGAINST DEFENDANT, KAUFFMAN DUE TO CARE DENIED. ANY-N-ALL COMMENTS ARE TO DEMONSTRATE THE STATE OF MIND. Doc #127 AT 6; 20; 38; 39; 41-45; 48-63; 81-88; 91-97; 98; 100-102; 110; 111; 116; EXH 55 AT 3-10; 12-19; 23; 25; 26; 35-41; EXH 56 AT I-IX ESTELLE, 429 U.S. AT 104-105; MEDICAL DEFENDANTS HAVE THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(73) EXH G AT 18; H AT 16; I AT 21; E AT 19; F AT 23; MOTIVE IS RELEVANT TO DETERMINING WHETHER A GENUINE ISSUE OF FACT EXISTS. MADUSHLITA, 475 U.S. AT 596, SEE Doc #127 AT 38; 39; 41-45; 48-63; 88; 100; 101; 111; 116; EXH 55 AT 10; 14; 23; 26; 34-41; ESTELLE, 429 U.S. AT 104-105; MEDICAL DEFENDANTS HAVE THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(74) EXH S H AT 17; I AT 22; E AT 20; F AT 24; G AT 19; NO CLAIM IS ALLEGED FOR THE CARE DEFENDANTS, HUTCHINSON; PLAYSO; TESTA, KAUFFMAN, -N-FETTERMAN PROVIDED, PLAINTIFF CLAIMS ARE ALLEGED FOR THE CARE EACH DENIED, ID. 429 U.S. AT 104-105. MEDICAL DEFENDANTS, MOVANTS HAVE THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED, ID. 477 U.S. AT 323

(75) EXH S I AT 23; E AT 21; F AT 25; G AT 20; H AT 18; SEE ABOVE AT 74

(76) EXH S E AT 22; F AT 26; G AT 21; H AT 19; I AT 24; SEE ABOVE AT 34; ALL VERIFICATION OPP: SJ 3:19-CV-00196 (29)

IONS (EXCEPTION OF KAUFFMAN, WHICH IS NOT DATED) WERE DATED AFTER HAVING BEEN SERVED MARSHALL FORM IN THE COMPLAINT. THEREFORE DEFENDANTS, TESTA, FETTERMAN KNEW PRIOR TO SIGNING THE VERIFICATION THAT THEY WERE DEFENDANTS IN WASHINGTON V. DELISMA, 3:17-CV-00196, DEFENDANTS, KAUFFMAN, HUTCHINSON-N-PLAYSO, WERE DEFENDANTS IN WASHINGTON V. BARNHART, 3:17-CV-00070, SUBMITTED VERIFICATION FOR THE SECOND TIME, ESSENTIALLY THE SAME VERIFICATION, SIGNED DATED U.S. MARSHALL FORM MORE THAN A YEAR IN ADVANCE TO PLAINTIFF FILING WASHINGTON V. DELISMA. ALSO SEE ABOUT P.P. 8, 9; A GRIEVANCE AGAINST DEFENDANT, KAUFFMAN DATED 4.3.18, 6Nth 730068; DEFENDANT TESTA, 6.17.19, 6Nth 807334 WITHOUT INTERVIEW DEFENDANTS, TESTA, KAUFFMAN, FETTERMAN, HUTCHINSON, N-PLAYSO, IT WOULDN'T BE AN INVESTIGATION THEREFORE, THE CLAIMS OF HAVING NO KNOWLEDGE OF BEING SUED, PASS LAWSUIT-N-GRIEVANCE AGAINST DEFENDANT PERSONALLY CANNOT BE.

N.B. ONE OF THE CLAIMS ALLEGED WERE AGAINST DEFENDANT, SROKA, FOR NOT PROCESSING PLAINTIFF GRIEVANCES, WHICH EXPLAINS THE SILENCE ON PLAINTIFF TIMELY FILED GRIEVANCES AGAINST DEFENDANTS R. HUTCHINSON-N-J. FETTERMAN.

N.B. MORE THAN ONCE OR TWICE MEDICAL DEFENDANT HAVE MADE ASSERTION TO EVENT THAT SIMPLY CANNOT BE, AND THIS INFERS DEFENDANTS MADE SUCH ASSERTION TO CREATE A DISPUTED MATERIAL FACT, OR TO SUPPORT OR DISPUTE A MATERIAL FACT. SYNTHESIS, 2007 U.S. DIST. LEXIS 53812 (E.D. PA. JULY 12, 2007) (INADMISSIBLE HEARSAY IN ATTEMPT TO ESTABLISH A DISPUTED MATERIAL ISSUE OF FACT, SUMMARY JUDGMENT IS APPROPRIATE) DOCth 127 AT 38, 39, 41-43, 48, 51, 56, 57, 60, 88, 62; EXH 55 AT 9, 10, 14, 23, 37-41; MATSUSHITA, 475 U.S. AT 596 (MOTIVE IS RELEVANT TO DETERMINING WHETHER A GENUINE ISSUE FACT EXISTS)

MEDICAL DEFENDANTS, MOVANTS HAVE THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED. ID. 477 U.S. AT 323

(77) EXH: F AT 27; G AT 21; H AT 20; I AT 25; AND E AT 23; MOTIVE IS THE DRIVING FACTOR THROUGHTOUT THE COMPLAINT. MATSUSHITA, 475 U.S. AT 596. SEE DOCth 127 AT 54; EXHIBIT 55 AT 5, 10, 23. . . MEDICAL DEFENDANTS HAVE THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, ID. 477 U.S. AT 323

(78) EXH: G AT 23; H AT 21; I AT 26; E AT 24; F AT 28. MEDICAL DEFENDANTS OWN WORDS SHOULD BE BELIEVED. DOCth 127 AT 39, 49, 97, 98, 59; EXH 55 AT 10, 14, 23, 37, 39-41 CITY OF CLEBURNE, TEXAS, 473 U.S. 432, 440 (LEGITIMATE INTEREST). CARTER, 2010 U.S. DIST. 17484 *93 (MISCONDUCT BASED ON RACE) MEDICAL DEFENDANTS, MOVANTS HAVE THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, ID. 477 U.S. 323

(79) EXH: I AT 27. MOTIVE SHOULD BE SERIOUSLY CONSIDERED. DOCth 127 AT 41-43, 60, 56, 59, 111, 86 EXH: 55 AT 9, 14, 23, 25, 37-41. GREAT W. MINING & MINERAL CO 615 F.3d 159, 179 (3d Cir. 2010); Wend, 568 F.3d 100, 107 (3d Cir. 2014) (CONSPIRACY). DEFENDANT, THE MOVANTS, HAVE THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, AND FAILED. ID. 477 AT 323

(80) EXH: E AT 25; F AT 29; G AT 24: NO CLAIM IS MADE AGAINST DEFENDANTS, TESTA, KAUFFMAN-N-FETTERMAN FOR HAVING CURSED AT PLAINTIFF. PLAINTIFF ALLEGED CLAIMS AGAINST EACH DEFENDANT, INDIVIDUALLY FOR CARE DENIED, ANY COMMENT DEMONSTRATE DEFENDANTS STATE OF MIND. MEDICAL DEFENDANTS DENIAL OF CARE REINFORCED

THE DEFENDANTS' WORDS, Doc #127 AT 20, 49, 53, 55, 59, 113, 100, 97, 98 EXH: 55 AT 9, 10, 14, 23, 26, 37-41
CHESTNUT V. SMITH, 2019 U.S. DIST. LEXIS 901084 (3d CR. JANUARY 18, 2019) (THREATS, REINFORCING
 ACT ACCOMPANYING THEM, RETALIATION); ESTELLE V. GAMBLE, 429 U.S. 97, 104, 105, 97 S. CT. 285
 (3d CR. 1999) (INTENTIONALLY REFUSED TO PROVIDE CARE, KNOWS OF PRISONER'S NEED FOR MEDICAL
 TREATMENT BUT DELAYS NECESSARY MEDICAL TREATMENT BASED ON NON-MEDICAL REASONS, PRE-
 VENT A PRISONER FROM RECEIVING NEEDED OR RECOMMENDED MEDICAL TREATMENT) (GRIE-
 VANCE INDIFFERENCE TO SERIOUS MEDICAL NEEDS OF A PRISONER CONSTITUTES UNNECESS-
 ARY-N-WANTON OF PRISON PRESCRIBED BY THE EIGHTH AMENDMENT) ROUSE V. PLANTIER, 132
 F.3d 192, 197 (3d CR. 1999); ARMSTRONG 2020 WL 5545270*3 (W.D. PA. SEPTEMBER 16, 2020) (CORT-
 LESSA 2005 U.S. DIST. LEXIS 2051373 (E.D. PA. OCTOBER 26, 2005) (DENYING MEDICAL CARE, RETALIAT-
 ION FOR FILING GRIEVANCES); WOOD V. WILLIAMS, 563 F. APP'X 100, 101 (3d CR. 2014); GREAT W. MIN-
 ING & MINERAL CO. V. FOX ROTHSCHILD LLP, 615 F.3d 159, 179 (3d CR. 2015) (CONSPIRACY) (MEDI-
 CAL DEFENDANTS, MOVANTS HAVE THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE
 OF MATERIAL FACT, AND FAILED, I.D. 477 U.S. AT 323.

N.B. MEDICAL DEFENDANTS KNEW THE DANGER DISREGARDED THE RISK) FARMER V. BRENNAN, 511 U.S. 825, 837, 114 S. CT. 1970 (1998); TAJI JEMAL LEE V. CORIZON HEALTH INC., 2020
 U.S. DIST. LEXIS 6505*22 (3d CR. JANUARY 14, 2020) (DENIED CARE AND ORDERED PLAINTIFF TO LE-
 AVE "WITHOUT TOUCHING" OR "OBSERVING" PLAINTIFF); RED APPLE BROS. INC., 974 F.3d 1358,
 1363 (3d CR. 1992) (NON-MOVANT TAKEN AS TRUE)

18. PLAINTIFF, NON-MOVANT ~~STATED~~ DEMONSTRATED MEDICAL DEFENDANTS' MOTION SHOULD BE
 DENIED, WHEREBY PLAINTIFF PROVED THAT MEDICAL PENALIZED PLAINTIFF FOR ENGAGING CONSTIT-
 UTIONALLY PROTECTED CONDUCT, Doc #127 AT 38, 41, 43, 48, 51, 56, 57, 60, 82, 86, 88, 113, 111, 116
 EXH: 55 AT 9, 10, 14, 23, 26, 34-37, (1) PLAINTIFF SUFFERED ADVERSE ACTION, DENIAL OF CARE, AND
 OR DELAY, AND DENIAL OF ACCESS TO CARE, Doc #127 AT 6, 9-12, 14-20, 38, 39, 41-44, 48-63, 66,
 87, 88, 94-97, 100, 101, 114, 116 EXH: 55 AT 3, 8, 12, 13, 18, 19, 23, 26, 34-41. ARMSTRONG 2020
WL 5545270*3 (W.D. PA. SEPTEMBER 16, 2020); WATSON, 834 F.3d 417, 422 (3d CR. 2016); RAUSER, 241
 F.3d 330, 333, 334 (3d CR. 2001) AN ADVERSE ACTION IS ONE THAT WOULD DETER A PERSON OF
 ORDINARY FIRMNESS FROM EXERCISING HIS FIRST AMENDMENT RIGHTS
 Doc #127 AT 20, 44, 62, 63, 82, 84, 88, 110, 111, 116 EXH: 55 AT 9, 10, 12, 51, 81, 4, 23, 26, 34-41
CORTLESSA 2005 U.S. DIST. LEXIS 2501370 (E.D. PA. OCTOBER 26, 2005) (DENYING MOTION TO DIS-
 MISS RETALIATION CLAIM WHERE PLAINTIFF ALLEGED THAT HE WAS DENIED ADEQUATE MEDI-
 CAL ASSISTANCE BY PRISON OFFICIALS IN RETALIATION FOR ATTEMPTING TO FILE GRIEVAN-
 CES); HUGHES, 2005 U.S. DIST. LEXIS 2783*14 (E.D. PA. FEBRUARY 24, 2013); DIAS-CRUZ 2016
U.S. DIST. LEXIS 147918*43, 43 (W.D. PA. OCTOBER 26, 2016) (DENIAL OF MEDICAL CARE CAN
 CONSTITUTE AN ADVERSE ACTION FOR THE PURPOSE OF A RETALIATION CLAIM) (3) THE
 CONSTITUTIONALLY PROTECTED CONDUCT WAS A SUBSTANTIAL OR MOTIVATING FACTOR OF
 THE DECISION TO TAKE THE ADVERSE ACTION, Doc #127 AT 38, 43, 51, 48, 60, 100, 116
 EXH: 55 AT 9, 10, 26, 34-41
 PLAINTIFF ALLEGED (1) AN UNUSUALLY SUGGESTIVE TEMPORAL PROXIMITY BETWEEN
 THE PROTECTED ACTIVITY AND THE ALLEGEDLY RETALIATORY ACTION, OR (2) A PATTERN
 OPP: SJ 3:19-CV-00196 (31)

OF ANTAGONISM COUPLED WITH TIMING TO ESTABLISH A CAUSAL LINK, LAUREN W. V. DEFLAMMATE, 483 F.3d 259, 267 (3d Cir. 2007), Doc 127 AT 20; 38, 38; 39, 41-44, 48-63, 81, 83, 87-88-88, 88-88, 94-99, 100, 101, 110, 111, 114 EXH 55: 4-16; 12-19; 23; 25; 26; 31-41

19 MEDICAL DEFENDANTS BRIEF IN SUPPORT OF SUMMARY JUDGMENT, Doc # 139 AT P.20-21 AT 60. WHILE MEDICAL DEFENDANTS CONTINUE TO RELY ON DENIALS -N- HEARSAY, WHICH IS NOT ENOUGH TO SUPPORT A MOTION FOR SUMMARY JUDGMENT, THEREFORE, MEDICAL DEFENDANTS MOTION FOR SUMMARY JUDGMENT SHOULD BE DENIED.

GALLI V. NEW JERSEY MEADOWLANDS COMMUN., 496 F.3d 265, 270 (3rd Cir. 2007) (FAC P 56 E; WHILE THE EVIDENCE OF THE NON MOVING PARTY MAY EITHER BE DIRECT OR CIRCUMSTANTIAL AND NEED NOT BE AS DIRECT AS A PREPONDERANCE, THE EVIDENCE MUST BE MORE THAN A SCINTILLA) Doc 127 AT 20; 39; 49; 59; 97; 98; 103; 104; EXH 55 AT 4; 25; 33; 39-41 CITY OF CLEBURNE, TEXAS V. CLEBURNE LIVING CENTER, 473 U.S. 437, 440, 105 S. CT. 3249 (1995) (LEGITIMATE INTEREST); BARTER V. MORRISON, 2010 U.S. DIST, LEXIS 17884 *93 (3d Cir. FEBRUARY 27, 2010) (MISCONDUCT BASED ON RACE); PHILLIPS V. COUNTY OF ALLEGHENY, 515 F.3d 224, 240 (3d Cir. 2008) POLLACK V. CITY OF PHILA., 2007 U.S. DIST, LEXIS 11624 (3d Cir. FEBRUARY 16, 2007) (PLAINTIFF WAS INTENTIONALLY TREATED DIFFERENT FROM ALL OTHER SIMILARLY SITUATED AND THAT THERE IS NO RATIONAL BASIS FOR THE DIFFERENCE IN TREATMENT); PHILLIPS V. GROSCH, 408 F.3d 124, 127, 132 (3d Cir. 2008) (OBLATANT DISCRIMINATION BASED ON RACE); ARTWAY V. CITY GEN., 81 F.3d 1235, 1267 (3d Cir. 1996). MEDICAL DEFENDANTS, MOVANT HAVE THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT; AND FAILED; ID 477 U.S. AT 373

20. Doc # 139, P.21 AT 14; AND P.21: ONE OF THE ISSUES ALLEGED IN THIS LEGAL ACTION WAS AGAINST, HEIDE BROKA CONCERNING 1st, 8th, AND 14th AMENDMENT; AND RLITPA VIOLATIONS, WHICH INCLUDES DENIAL OF EXHAUSTION, AND LIABILITY-FAILURE TO ACT. AMONG THE GRIEVANCE TIMELY FILED WERE GRIEVANCE CONCERNING MEDICAL DEFENDANTS, G. PUSKAR, HUTCHINSON, J. FLETTERMAN, etc. THESE ISSUES WERE DECIDED DURING THE MOTION TO DISMISS STAGE, SEE Doc # 100 AT PP 25-26, NOTE 15 "THE COURT ALSO NOTES THAT IT IS WELL-SETTLED THAT A PRISONER HAS NO DUE PROCESS RIGHTS THAT ARE IMPLEMENTED BY THE PRISON GRIEVANCE SYSTEM, AS ACCESS TO A PRISON GRIEVANCE PROCEDURE IS NOT A CONSTITUTIONALLY MANDATED RIGHT AND CONFERS NO LIBERTY INTEREST ON A PRISONER. ALLEGATIONS ABOUT MISHANDLING THE GRIEVANCE SYSTEM THUS FAIL TO STATE A COGNIZABLE CLAIM." WILLIAM V. ARMSTRONG, 510 F.3d 1008-109 (3d Cir. 2014); FEARS V. BEARD, FED. APPX. 78-81 (3d Cir. 2013).

PURSUANT TO ROS V. BLAKE 136 S. CT. 1850, 1860, N.3 (2016); ANDERSON CHRISTINA-SILVA V. U.S. PRISONERS FOOD DIRECTOR MR. RAMIREZ, 2013 U.S. DIST LEXIS 117119 *10 (3d Cir. JULY 12, 2013) (WHEN ADMINISTRATORS TREAT INMATES FROM TAKING ADVANTAGE OF A GRIEVANCE PROCESS THROUGH MACHINATION, MISREPRESENTATION OR INTIMIDATION); ROBINSON V. SUPERINTENDENT ROCKVIEW SCI., 831 F.2d 148, 154 (3d Cir. 2016) (ADMINISTRATIVE REMEDIES WERE UNAVAILABLE TO A PRISONER WHEN THE PRISON FAILED TO

TIMELY RESPOND TO PRISONER'S GRIEVANCE, AND RELATEDLY IGNORED HIS FOLLOW-UP REQUEST FOR A DECISION ON HIS CLAIM)

N.B. MEDICAL DEFENDANTS SIMPLY THAT THE CLAIMS IN THIS LEGAL ACT WERE NOT FULLY EXHAUSTED, AS MENTIONED FETTERMAN AND OTHERS WERE GRIEVANCES TIMELY, DEFENDANT, SRAKA, WARDEN'S ASSISTANT REFUSED TO ASSIGN THE GRIEVANCES A TRACKING NUMBER WHICH EXPLAINS THE REASON WHY THOSE GRIEVANCES DO NOT APPEAR AMONG THE GRIEVANCES MEDICAL DEFENDANTS COMPILED TO BE USED AS THEIR EXH "J"

YES! PLAINTIFF SUCCESS UTILIZE THE PROCESS OUTLINED IN THE DC ADM 804, BY USING A NON-EXHAUSTING ALL AVAILABLE REMEDIES,

OF COURSE, IF GRIEVANCES CITING THE NAMES OF R. HUTCHINSON - N.J. FETTERMAN ARE AMONG THE GRIEVANCES THAT NO GRIEVANCE TRACKING WAS ASSIGNED THEN THEY WOULD BE GRIEVANCES ~~WHICH~~ WHICH MEDICAL DEFENDANT HAVE CITED. DEFENDANT PLAYSO NAME IS CITED IN MORE THAN ONE GRIEVANCE AS MENTIONED ABOVE... HOWEVER THE SPRUILL COURT NOT PROVIDING THE NAME OF THE PERSON GRIEVED IN THE GRIEVANCE IS NOT AN AUTOMATIC PROCEDURAL DEFAULT, THIS IS THE EXCEPTION, THERE ARE ONLY A FEW FALL WITHIN THAT EXCEPTION; SPRUILL V. GILLIS, 372 F.3d 218, 234 (3d CR, JANUARY 13, 2004) (THE PRISON CAN EXCUSE AN INMATE'S FAILURE TO DO SO BY IDENTIFYING THE UNIDENTIFIED PERSON AND ACKNOWLEDGING THAT THEY WERE FAIRLY WITHIN THE COMPASS OF THE PRISONER'S GRIEVANCE) GRIEVANCE OFFICER - FACILITY MANAGER - AND THE CHIEF GRIEVANCES OFFICER, RECOGNIZED THAT EVENTS PLAINTIFF COMPLAINED OF EXCUSED ANY PROCEDURAL DEFECTS IN PLAINTIFF INITIAL GRIEVANCE. TALLEY V. WETZEL, 2020 U.S. DIST. LEXIS 15309*18 (3d CR, 2020) (FULLY EXHAUSTED, FULLY EXAMINED ON THE MERIT) SPRUILL V. GILLIS 372 F.3d AT 35 (IF THE WARDEN OR WHATEVER IS APPROPRIATE STATE OFFICIAL MAY BE; IS DISSATISFIED WITH THE PROCEDURAL DEFAULT RULINGS, (IN PART TWO) HE OR SHE MAY ALTER THE GRIEVANCE SYSTEMS TO REQUIRE MORE (OR LESS) OF INMATES BY THE WAY OF EXHAUSTION)

N.B. SCI-MEDICAL PROFESSIONALS - N-DOC STAFF DO NOT WEAR NAME TAB ON THEIR CHEST, ON A REGULAR BASIS, AND INMATES THAT ASK THEIR NAME THE RESPONSE MOST OFTEN "NOT ALLOWED TO GIVE INMATES THEIR NAMES" "YOU DON'T NEED TO KNOW THEIR NAME", PLAINTIFF ONLY DISCOVERED THE NAMES OF DEFENDANT IN THE LEGAL ACTION THROUGH OTHER INMATES,

N.B. ANDERSON COUTINO-SILVA, 2018 U.S. DIST LEXIS 117119*11 (THERE IS A GENUINE ISSUE OF MATERIAL FACTUAL DISPUTE ABOUT WHETHER THE CORRECTION OFFICERS THWARTED THE PLAINTIFF USE OF THE ADMINISTRATIVE - REMEDY PROCESS, AND THAT DISPUTE IS MATERIAL TO WHETHER THERE WERE ADMINISTRATIVE REMEDIES AVAILABLE TO HIM TO EXHAUST). BIG APPLE BMW INC., 974 F.2d 1358, (3d CR 1992) (WHERE THE NON MOVING PARTY'S EVIDENCE CONTRADICTS THE MOVANTS THEN THE NON MOVANTS MUST BE TAKEN AS TRUE). MEDICAL DEFENDANTS, MOVANTS HAVE THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, I.D. 477 U.S. AT 323.

21. Doc #139, PP 22-23 AT RETALIATORY CONSPIRACY, MOTIVE IS RELEVANT TO DETERMINING WHETHER A ISSUE OF MATERIAL FACT EXIST, MATSUSHITA, 475 U.S. AT 596

WOOD V. WILLIAMS, 568 F. Appx 100, 107 (3d Cir. 2014); GREAT W. ~~MINING~~ + MINERAL CO., 615 F.3d 154, 179 (PLAINTIFF ALLEGED IN SPECIFIC TERMS THE APPROXIMATE TIME WHEN THE AGREEMENT WAS MADE, THE SPECIFIC PARTIES TO THE AGREEMENT, THE PERIOD OF THE CONSPIRACY, OR THE OBJECT OF THE CONSPIRACY). Doc # 127, PLAINTIFF FACTS AT 38, 39, 41-45, 48, 51, 56, 57, 60, 62, 63, 81-84, 86, 88, 110, 111 EXH: 55 AT 9, 23, 25, 36-41
 PLAINTIFF, NON MOVANT SUCCESSFUL ALLEGED A CLAIM OF CONSPIRACY AGAINST MEDICAL DEFENDANTS, THEREFORE, MEDICAL DEFENDANTS, MOVANT HAVING THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT, ID 477 U.S. AT 323
 22. Doc # 139, P. 23 AT J: NO CLAIM IS ALLEGED AGAINST MEDICAL DEFENDANTS FOR RLUIPA VIOLATION, OR DENIAL OF RELIGIOUS RIGHTS. HOWEVER, EACH MEDICAL DEFENDANTS PROFFERED THAT THEIR CONDUCT WAS TO PENALIZE PLAINTIFF FOR HAVING FILED GRIEVANCES AGAINST FRIENDS, COWORKER, NEIGHBOR, RELATIVES, WHICH ENTAILS DEFENDANT, MAUST. Doc # 66-68 EXH: 55 AT 14, 27
 DENIAL IS INSUFFICIENT TO SUPPORT A MOTION FOR SUMMARY JUDGMENT; A MEER DENIAL IS INSUFFICIENT TO RAISE A DISPUTED ISSUE OR FACT. Id. LOCKHART, 411 F.2d 455, 458 (3d Cir. 1969) MEDICAL DEFENDANTS MOVANTS HAVE THE DUTY TO ESTABLISH THE ABSENCE OF GENUINE ISSUE OF MATERIAL FACT. ID. 477 U.S. AT 323

23. N.B. PURSUANT TO FRCP 56 INTER ALIA, A PARTY CLAIMING THAT A FACT CANNOT BE SHOWING THAT THE MATERIAL CITED DO NOT ESTABLISH THE ABSENCE OR PRESENCE OF A GENUINE ~~ISSUE~~ ^{DISPUTE}. . . THROUGH MEDICAL DEFENDANTS BRIEF IN SUPPORT FOR SUMMARY JUDGMENT THE ASSERTION OF PLAINTIFF HAVING "A BIOPSY" "SEEN BY A FENT", "TESTED FOR WHIPPLES". SEE THE ATTACHED, A BIOPSY-~~IS~~ A INTRUSIVE SURGICAL PROCEDURE, WHERE PLAINTIFF WOULD NEED TO BE GIVEN ANESTHESIA, WHICH DEMAND PLAINTIFF SIGNED CONSENT, PLAINTIFF PROVIDED THE COURT WITH A SIGNED CONSENT. MEDICAL DEFENDANTS FAILED TO PROVIDE A SIGNED CONSENT FOR PLAINTIFF HAVING UNDER BONE THE PROCEDURE MEDICAL DEFENDANT REPEATEDLY ASSERTED, WITHOUT A SIGNED CONSENT FORM DEMONSTRATES MEDICAL DEFENDANTS WILLINGLY-N-WONTONLY DECEIVED THE COURT FOR THE SAKE OF BEING GRANTED THE MOTION FOR SUMMARY JUDGMENT

24. CONCLUSION

IN LIGHT OF THE FOREGOING, DEFENDANT, KANSKY DELISMA, DAKOTA TESTA, ELLIS KAUFFMAN, JAMES FETTERMAN, RICHARD HUTCHINSON, AND ROXANNE ALAYSO REQUEST ^{FOR MOTION} FOR SUMMARY JUDGMENT SHOULD BE DENIED

Somerset Hospital
225 South Center Avenue
Somerset, PA 15501-2088
Phone: 814-443-5000

DIVISION OF PATHOLOGY
James J. Pisano, M.D., Medical Director
Phone: 814-443-5216
Fax: 814-443-5165

Patient: WASHINGTON, HENRY	Accession No: S-20-1470
Medical Record Number: 000205152	Date of Procedure: 9/3/2020
Date of Birth: 3/13/1944	Date Received: 9/3/2020
Sex: M Age: 76	Patient Type: SDS
	Location: SSS
	Ordering Clinician: Salvatore Lanasa, MD
Account No: 1002059337	Copies To: KANSKY 289959-SCI SOMERSET DELISMA

SURGICAL PATHOLOGY REPORT

SPECIMEN(S): A. JEJUNAL BIOPSY ~~RULE OUT CELIAC'S DISEASE~~

CLINICAL HISTORY: ANEMIA; POSSIBLE CELIAC'S DISEASE; ABDOMINAL PAIN

PRE-OP DIAGNOSIS: ANEMIA; POSSIBLE CELIAC'S DISEASE; ABDOMINAL PAIN

POST-OP DIAGNOSIS: SAME AS PRE-OP DIAGNOSIS

FINAL DIAGNOSIS:

A. Jejunal biopsy, ~~rule out celiac disease~~

~~Small intestinal mucosa is seen with mild chronic inflammation.~~

~~No significant eosinophilia seen.~~

No villous atrophy, no increase in intraepithelial lymphocytes, no increase in crypt hyperplasia, Marsh score for celiac disease is 0.

GROSS DESCRIPTION: Specimen labeled "Jejunal Biopsy Rule Out Celiac Disease" is received in formalin and consists of a single tan-pink fragment of tissue measuring 0.2 x 0.2 x 0.1 cm. The specimen is submitted in its entirety in one cassette.

The gross description is reviewed by the Pathologist and concurs with the final diagnosis on 9/3/2020.

Final Diagnosis performed by
Harold G. Ashcraft, M.D.
Pathologist
Electronically signed 9/4/2020

Roxanne Playso, PAC
9/9/20
1440

Billing CPT Codes: 88305

All quality control and stains used in this case were found to be acceptable.

Disclaimer: The Pathology report was completed in part utilizing Dragon Speech Recognition Software. Random word insertion, pronoun errors, and incomplete sentences are an occasional consequence of this system due to software limitations and ambient noise.

Salvatore Lanasa, MD
Emergency Surgical Staff
226 E. Church Street
Somerset Pa,

VERIFICATION

I HAVE READ THE FOREGOING OPPOSITION TO MEDICAL DEFENDANTS MOTION FOR SUMMARY JUDGMENT AND HEREBY VERIFY THAT THE RESPONSES THEREIN ARE TRUE, EXCEPT AS TO MATTERS ALLEGED ON INFORMATION AND BELIEFS, AND TO THOSE, I BELIEVE THEM TO BE TRUE. PURSUANT TO 28 USC § 1746, I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED THIS 17 DAY OF JANUARY 2022, AT SCI-SOMERSET, SOMERSET, PA.

DATE:
1.17.22

"RESPECTFULLY SUBMITTED"
s/ Henry Unfeld Washington
HENRY UNFELD WASHINGTON
AM 3086
PRO SE

OPP: SJ 3:19-cv-00196

(36)